Supplemental Environmental Assessment to the Sector Operations Plan Addenda for Fishing Year 2010

Supplements the 17 Environmental Assessments for the final rule approving 17 Northeast multispecies Sector Operations Plans for Fishing Year 2010.

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1.0 INTRODUCTION

The National Marine Fisheries Service (NMFS) has prepared this supplemental analysis to evaluate potential impacts that would result from the approval of additional exemptions for each of the 17 Multispecies Sectors' Operations Plans. In accordance with the National Environmental Policy Act (NEPA), NMFS previously evaluated the potential impacts associated with the implementation of each of the sector's Operations Plans in the attached Environmental Assessments (EA). The conclusion reached in each EA was that the action of approving the sector Operations Plans would not significantly impact the quality of the human environment. All beneficial and adverse impacts of the action were evaluated in each EA, resulting in the conclusion of no significant impacts. This supplemental EA presents impact information on the physical, biological, habitat, and socio-economic ecosystem components that would result from approving additional exemptions described herein. Since this action is closely linked with the approval of the Operations Plans and would be implemented within the same fishing year (FY2010), the impacts associated with this action were evaluated in this supplemental EA rather than a completely separate EA. This document is not a standalone document and is only intended to be utilized in conjunction with the attached EAs.

As of May 1, 2010, a total of 17 sectors have been approved by NMFS to operate according to their sector-specific Operations Plans under an Annual Catch Entitlement (ACE). A sector is defined as a group of persons holding limited access vessel permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted an annual catch entitlement in order to achieve objectives consistent with applicable fisheries management plan (FMP) goals and objectives. In the formation of a sector, sector participants can select who could participate (NEFMC 2009). An ACE is defined as the amount of each allocated groundfish stock (in pounds) that a sector can harvest in a fishing year. All other groundfish vessels that are not associated with a sector operate under Common Pool rules, which, among other restrictions, generally control fishing mortality by limiting the number of days-at-sea (DAS). For each Sector Operations Plan, an EA was prepared in accordance with NEPA, and in compliance with NOAA's Administrative Order (NAO) 216-6, and the new sector regulations as described in Amendment 16 to the Northeast Multispecies FMP. ACEs and Sector Operations Plans, including any sector-specific exemptions described in subsequent sections, are only valid for the 2010 fishing year (May 1, 2010 to April 30, 2011). Additional introductory material regarding the multi-species fishery, sectors as a management tool, as well as the intent and goals of each sector is included in Sections 1.0 through 1.3 of the attached EAs.

The 17 sectors currently approved to operate in fishing year (FY) 2010 are referred to by the following:

- Northeast Fishery Sector (NEFS) II
- Northeast Fishery Sector III
- Northeast Fishery Sector IV
- Northeast Fishery Sector V
- Northeast Fishery Sector VI
- Northeast Fishery Sector VII
- Northeast Fishery Sector VIII
- Northeast Fishery Sector IX
- Northeast Fishery Sector X
- Northeast Fishery Sector XI
- Northeast Fishery Sector XII
- Northeast Fishery Sector XIII
- Georges Bank Cod Fixed Gear Sector (FGS)
- Sustainable Harvest Sector (SHS)
- Port Clyde Community Groundfish Sector (PCS)

- ❖ Tri-State Sector (TSS)
- ❖ Northeast Coastal Communities Sector (NECC) (referred to as NCCS in final rule for Amendment 16)

1.1 EXEMPTIONS

Sectors were approved to operate under certain exemptions from Northeast Multispecies regulations under which non-sector vessels (i.e., the "Common Pool") are required to operate. "Universal exemptions" were granted to sector vessels by Amendment 16, and sector-specific exemptions were included in their Operations Plans. The impacts associated with sector vessels operating under these exemptions from Common Pool restrictions were analyzed in the EAs that were prepared for each sector (attached).

In the Record of Decision (ROD) for Amendment 16, NMFS did not approve the Gulf of Maine (GOM) Haddock Sink Gillnet Pilot Program. The pilot program would have allowed all limited access NE multispecies vessels to target haddock in the GOM while using stand-up sink gillnets consisting of 6-inch mesh (limited to 30 nets for Day gillnet vessels) from January through April of each year. The pilot program was not approved because the catch of haddock could not be substantially increased without the possibility of also increasing mortality on GOM cod and pollock, stocks that at that time required reductions in fishing mortality in order to rebuild under established rebuilding programs in the FMP. Since the pilot program was proposed under Amendment 16, it was therefore not included as a sector-specific exemption in the sector Operations Plans. This program will be referred to in this document as the GOM sink gillnet exemption.

Sector representatives and other members of industry have raised concerns about the operational and safety issues posed to sector vessels as a result of complying with the regulations at § 648.87 (b)(1)(v)(A) which prohibit sector vessels from discarding any legal-sized fish of allocated stocks. Sector vessels have had to make space on deck to store catch that may be damaged or contaminated separate from food grade product, taking up valuable deck and hold space and potentially posing safety issues. At their June 16, 2010 meeting the Groundfish Oversight Committee of the New England Fishery Management Council expressed their desire for a solution to the discarding issue which could be implemented within FY2010. NMFS concluded the most efficient and effective manner to address the discarding issue was to offer an exemption to the sectors.

This supplemental EA is designed to analyze the potential impacts from allowing all sector vessels to participate in the GOM sink gillnet and discarding exemptions, as well as the previously approved exemptions. Each sector seeking the GOM sink gillnet and discarding exemptions, or a previously approved exemption, as part of this Supplemental EA will provide an addendum to their Operations Plan. All previously approved exemptions, in addition to the GOM sink gillnet and discarding exemptions are briefly described in the following sections.

1.1.1 Universal Exemptions

Universal exemptions for sectors and the general effects of sector formation given these universal exemptions are analyzed in the Amendment 16 Final EIS to the Northeast Multispecies FMP (NEFMC 2009).

- Exemption from groundfish DAS requirements including DAS reductions, differential groundfish DAS counting, the 3/15 rule for gillnets, and 24-hour DAS counting.
- Exemption from trip limits on stocks for which a sector receives an allocation of, except for the following:
    1. Halibut: trip limit would continue to be one fish per trip;

2. No vessel, whether in the Common Pool or in any sector, would be allowed to possess any windowpane flounder (both stocks), ocean pout, wolffish, or SNE/MA winter flounder on board at any time. When caught, these species must be returned.

- Exemption from the Georges Bank Seasonal Closure in May.
- Exemption from any additional mortality controls adopted by Amendment 16, including additional seasonal or year-round closures[1], gear requirements, DAS reductions, differential DAS counting, and/or restricted gear areas.
- Gulf of Maine Rolling Closures in specific blocks as identified in Amendment 16 (specifically Section 4.2.3.9).[2]
- Exemption from the requirement to use 6.5-inch mesh in the cod-end in haddock separator trawl/ Ruhle trawl when targeting haddock in the Georges Bank Regulated Mesh Area (i.e., authorized to use 6-inch mesh in the cod-end).

In accordance with the final rule for Amendment 16 published April 9, 2010 (75 FR 18262), the requirement for 72-hour pre-trip notification was reduced to 48 hour observer notification for all groundfish vessels. A minimum of 48-hour notification is necessary because of the additional logistical demands imposed upon the NMFS Observer Program due to the projected increase in demand for at-sea monitoring.

1.1.2 Sector-Specific Exemptions

In addition to the universal exemptions approved in Amendment 16, several sectors requested to operate under one or more additional exemptions from the NE multispecies regulations as specified in their sector operations plans. Exemptions approved by NMFS are summarized in Table 1 (No-Action Alternative). Depending on the Operations Plan, sectors may be exempt from the: 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 GB when fishing under a groundfish/monkfish DAS; 6) limits on the number of hooks that may be fished; and/or 7) DAS Leasing Program length and horsepower restrictions. Full descriptions of each of these previously approved exemptions are presented below.

1. *120-Day Block Requirement Out of the Fishery for Day Gillnet Vessels:*
This measure was implemented in 1997 under Framework (FW) 20 to the FMP (61 FR 55774, May 1, 1997) to help ensure that management measures for Day gillnet vessels were comparable to effort controls placed on other fishing gear types. Regulations at 50 CFR § 648.82(j)(1)(ii) require that each NE multispecies gillnet vessel declared into the Day gillnet category declare and take 120 days out of the non-exempt gillnet fishery. 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.

2. 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

[1] NMFS is granting year-round access to the Eastern U.S./Canada Area for yellowtail flounder as stipulated, but not specified, in Amendment 16.

[2] Amendment 16 exempts sectors from all rolling closures except for: Blocks 124 and 125 in April; Blocks 132 and 133 in April-May; Block 138 in May; Blocks 139 and 140 in May-June; and Blocks 145, 146,147, and 152 in June.

prevalent in the GOM. This regulation was developed as a mortality-control measure with associated benefits to provide protection for spawning aggregations.

3. Limitation on the Number of Gillnets for Day Gillnet Vessels
Current gear restrictions in the groundfish regulated mesh areas (RMA) 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)); 50 gillnets in the GB RMA (§ 648.80(a)(4)(iv)); and 75 gillnets in the Southern New England and Mid-Atlantic RMAs (§ 648.80(b)(2)(iv) and § 648.80(c)(2)(v), respectively). The current regulations require either one or two tags per gillnet depending on the type of net and RMA fished, to enforce gillnet limits. These restrictions were implemented in 1996 under Amendment 7 and revised in Amendment 13 to prevent an uncontrolled increase in the number of nets being fished, and thus, undermining the applicable DAS effort controls. This measure was designed to control fishing effort, and therefore NMFS determined it was no longer necessary since the sector is restricted to an ACE for each stock that caps overall fishing effort. Sector vessels granted this exemption are no longer restricted by the number of roundfish or flatfish nets in each area and are able to use up to 150 nets total in each RMA. Sector vessels which have been granted this exemption are also exempted from the current tagging provisions that require two tags per net and instead may mark their gear with one tag per net.

4. Prohibition on a Vessel Hauling another Vessel's Gillnet Gear
Current regulations prohibit one vessel from hauling another vessel's gillnet gear (§§ 648.14(k)(6)(ii)(A) and 648.84). The exemption allows fishermen from within the same sector to haul each other's gillnet gear, providing greater flexibility to the fisherman and potentially reducing the amount of gillnet gear in the water. However, all vessels participating in "community" fixed gear are jointly liable for any violations associated with that gear.

5. Limitation on the Number of Gillnets That May Be Hauled on GB When Fishing Under a Groundfish/Monkfish DAS
There is a 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), which prohibit Day gillnet vessels fishing on a groundfish DAS from possessing, deploying, fishing, or hauling more than 50 nets on GB, were implemented as a groundfish mortality control under Amendment 13. The exemption does not permit the use of additional nets; it only allows nets deployed under existing net limits, according to the Monkfish FMP, to be hauled more efficiently by vessels dually permitted under both FMPs.

6. Limitation on the Number of Hooks That May Be Fished
Current regulations (§ 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 SNE RMA, or 4,500 rigged hooks in the MA RMA. This measure, designed to control fishing effort, was initially implemented through an interim action (67 FR 50292, August 1, 2002) and made permanent through Amendment 13. A limitation on the number of hooks that a vessel may fish during a given fishing trip is no longer necessary because the sector is restricted to an ACE for each stock, which caps mortality from fishing.

7. Length and Horsepower Restrictions on DAS Leasing
While Amendment 16 exempts sector vessels from the requirement to use NE multispecies DAS to harvest groundfish, some sector vessels would still need to use NE multispecies DAS under specific circumstances, for example, when fishing for monkfish. Currently multispecies vessels are allowed to lease DAS from other vessels within certain limits of their baseline characteristics. The DAS leasing restrictions were imposed as a means of maintaining the character of the fleet. DAS would only be used by the approved sector members for the purpose of complying with the Monkfish FMP. Leasing

under this exemption is without regard to baseline characteristics and only occurs between vessels of the same sector or vessels of any other sector that is also granted this exemption.

1.1.3 GOM Sink Gillnet Exemption

This exemption was originally proposed as the GOM Haddock Sink Gillnet Pilot Program in Amendment 16, but was not approved by NMFS. The program as proposed in Amendment 16 would have allowed gillnet vessels to target healthy haddock stocks using 6-inch mesh gillnets in the GOM Regulated Mesh Area (GOM RMA) during January through April, provided such vessels declare their intent to participate in this program each year, notify the observer program 72 hours prior to each trip, and carry a letter of authorization issued by the RA. Day gillnet vessels participating in this program would have been limited to 30 nets and there would have been no limits on the number of nets for Trip gillnet vessels. All nets would have been stand-up nets; tie-down nets would not have been permitted. The pilot program proposed in Amendment 16 would have been open to all limited access NE multispecies vessels, which included both sector and Common Pool vessels. Participating Common Pool vessels would have been required to use a Category A DAS for any fishing trip taken during the season specified for the program. However, research demonstrates gillnets are not only effective at catching haddock, but also pollock and cod, stocks that required reductions in fishing mortality to rebuild under existing rebuilding programs. This program was disapproved by NMFS due to its potential to compromise the rebuilding programs for GOM cod and pollock based on the potential for this program to increase catch rates of these stocks. Since the pilot program proposed under Amendment 16 was applicable to all limited access NE multispecies vessels, it was not included as a sector-specific exemption in the sector Operations Plans. Additionally, it is noted that the pollock peer reviewed benchmark stock assessment review (SAW 50) was completed during the first week of June 2010, and the final summary report was completed on July 14, 2010. The conclusions in this report indicated that overfishing is not occurring, the stock is not overfished, and the stock is rebuilt.

The exemption proposed in this action would only apply to sector vessels, all of which are subject to an ACE specific to each of the 14 groundfish stocks allocated to sectors under Amendment 16 (i.e., GOM cod, Georges Bank (GB) cod, GOM haddock, GB haddock, American plaice, witch flounder, GOM winter flounder, GB winter flounder, Cape Cod/GOM yellowtail flounder, GB yellowtail flounder, Southern New England/Mid-Atlantic (SNE/MA) yellowtail flounder, redfish, pollock, and white hake) based upon the historic landings history of vessels participating in each sector. All aspects of the program described in Amendment 16 would be the same except that fishing effort would not be limited by use of Category A DAS, vessels would be required to notify the observer program 48 hours prior to each trip (consistent with fishery-wide notification requirements implemented under Amendment 16), and vessels would not need to declare their intent to participate. Consistent with the season originally proposed under Amendment 16, the exemption proposed in this action would still be effective from January 1, 2011, and would expire April 30, 2011 (the last day of the 2010 fishing year).

1.1.4 Discarding Exemption

Note: NMFS published a proposed rule on September 2, 2010, that proposed to implement addenda to add exemptions to the 17 approved FY 2010 Sector Operations Plans (75 FR 53939), including the discarding exemption. 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 and disrupt the cumulative year-long dataset used to monitor sector ACEs. Therefore, this exemption has been removed as an option in the final rule for this action. However, NMFS will consider this exemption for FY 2011 Sector operations plans which would be effective at the start of the new fishing year (May 1, 2011). Since this measure will be considered in a later action, the complete analysis of this exemption was retained in this final supplemental EA for informational purposes.

The regulations at § 648.87(b)(1)(v)(A) prohibit sector vessels from discarding any legal-sized fish of allocated stocks. However, sector representatives and other members of industry have raised concerns about the operational and safety issues posed to sector vessels as a result of complying with these regulations. Sector vessels have had to make space to store catch that may be damaged or contaminated separate from food grade product, thereby taking up valuable deck and hold space and potentially posing safety issues. At their June 16, 2010 meeting the Groundfish Oversight Committee of the New England Fishery Management Council expressed their desire for a solution to the discarding issue which could be implemented within FY2010. NMFS concluded the most efficient and effective manner to address the discarding issue was to offer an exemption to the sectors.

The exemption in this action would allow sector vessels on a sector trip to discard fish at sea that are considered unmarketable. The decision whether or not to discard fish under this exemption would be at the discretion of the vessel operator. The exemption would only apply to sector vessels, all of which are subject to an ACE specific to each of the 14 groundfish stocks allocated to sectors under Amendment 16 (i.e., GOM cod, GB cod, GOM haddock, GB haddock, American plaice, witch flounder, GOM winter flounder, GB winter flounder, Cape Cod/GOM yellowtail flounder, GB yellowtail flounder, SNE/MA yellowtail flounder, redfish, pollock, and white hake) based upon the historic landings history of vessels participating in each sector. Fish discarded under this exemption would still be applied to the vessel's sector ACE through observer data or through sector-specific discard rates for unobserved trips. Fish discarded for reason of unmarketability would be recorded by at-sea monitors on observed trips or incorporated into the sector's specific discard rates by stock and gear strata for unobserved trips. For the purposes of this action, unmarketable fish is defined as any legal-sized fish the vessel owner/captain elects not to retain because of condition or marketability problems.

2.0 PURPOSE AND NEED FOR THE PROPOSED ACTION

The need for this action is to provide additional opportunities to sectors for flexible fisheries management through local decision making, self-monitoring, and enforcement within the timeframe of FY 2010. The purpose of the action is to approve each sector's Operations Plan Addendum. NMFS is providing an opportunity for sectors to request an exemption (GOM sink gillnet exemption) that had been denied under Amendment 16 for all limited access NE multispecies vessels, but had not been analyzed in the context of its applicability to only sector vessels. NMFS is also offering sectors a discarding exemption as means to address operational and safety issues within FY2010. Finally, NMFS is providing an opportunity for sectors to request any of the previously approved exemptions which they had not originally requested. Each sector seeking the GOM sink gillnet exemption, the discarding exemption, or a previously approved exemption will provide an addendum to their Operations Plan.

3.0 PROPOSED ACTION AND ALTERNATIVES

The Proposed Action and other alternatives considered in this assessment are described in the following sections and summarized in the subsequent tables.

3.1 ALTERNATIVE 1 – NO-ACTION ALTERNATIVE

The No-Action Alternative is the disapproval of one or more of the addendums to any sector's Operations Plan. Alternative 1 would result in sector vessels operating under the Operations Plans approved for the start of the 2010 FY on May 1, 2010. The No-Action Alternative serves as the baseline scenario as it represents a continuation of the current condition. Table 1 below summarizes the sector-specific exemptions currently approved for FY 2010.

3.2 ALTERNATIVE 2 – NEW EXEMPTIONS (GOM SINK GILLNET EXEMPTION & DISCARDING EXEMPTION)

Alternative 2 is the approval of the GOM sink gillnet exemption and the discarding exemption for all previously approved sectors that request these exemptions. Under the GOM sink gillnet exemption day gillnet sector vessels would be permitted to use 6-inch mesh gillnets in the GOM RMA. (Figure 1) between January 1, 2011 and April 30, 2011, provided such vessels carry a letter of authorization issued by the NMFS Regional Administrator (RA). For the purpose of analysis in this Supplemental EA, it is assumed Day gillnet sector vessels would be able to fish up to 150 total gillnets, as this would represent the maximum number of nets allowed under existing and proposed regulations or exemptions. There would be no limit on the number of nets for Trip gillnet vessels. All nets must be stand-up nets, as tie-down nets could not be used during this period. Vessels would still be subject to any rolling closures in effect. Sector vessels would not be required to use Category A DAS when fishing under the proposed GOM sink gillnet exemption, unless otherwise required to use Category A DAS to participate in the monkfish or skate fisheries. The exemption would be in effect from January 1, 2011, through April 30, 2011 (the last day of the 2010 fishing year).

Under the discarding exemption sector vessels on a sector trip would be allowed to discard fish at sea that are considered unmarketable. The decision whether or not to discard fish under this exemption would be at the discretion of the vessel operator. Fish discarded under this exemption would still be applied to the vessel's sector ACE through observer data or through sector-specific discard rates for unobserved trips. Fish discarded for reason of unmarketability would be recorded by at-sea monitors on observed trips or incorporated into the sector's specific discard rates by stock and gear strata on unobserved trips.

Table 2 indicates which sectors have requested these exemptions, and summarizes previously approved sector-specific exemptions.

3.3 ALTERNATIVE 3 (PROPOSED ACTION) – NEW EXEMPTIONS (GOM SINK GILLNET EXEMPTION & DISCARDING EXEMPTION) PLUS ADDITIONAL PREVIOUSLY APPROVED EXEMPTIONS

Alternative 3, the Proposed Action, is the approval of the GOM sink gillnet and discarding exemptions as well as any additional exemptions that were previously approved by NMFS. Sectors were permitted to request the GOM sink gillnet and discarding exemptions as described in Alternative 2, as well as any other exemptions that were approved for other sectors, but not requested for the start of the fishing year (May 1, 2010). Table 3 below summarizes all new exemptions requested, as well as exemptions that were previously approved for each sector.

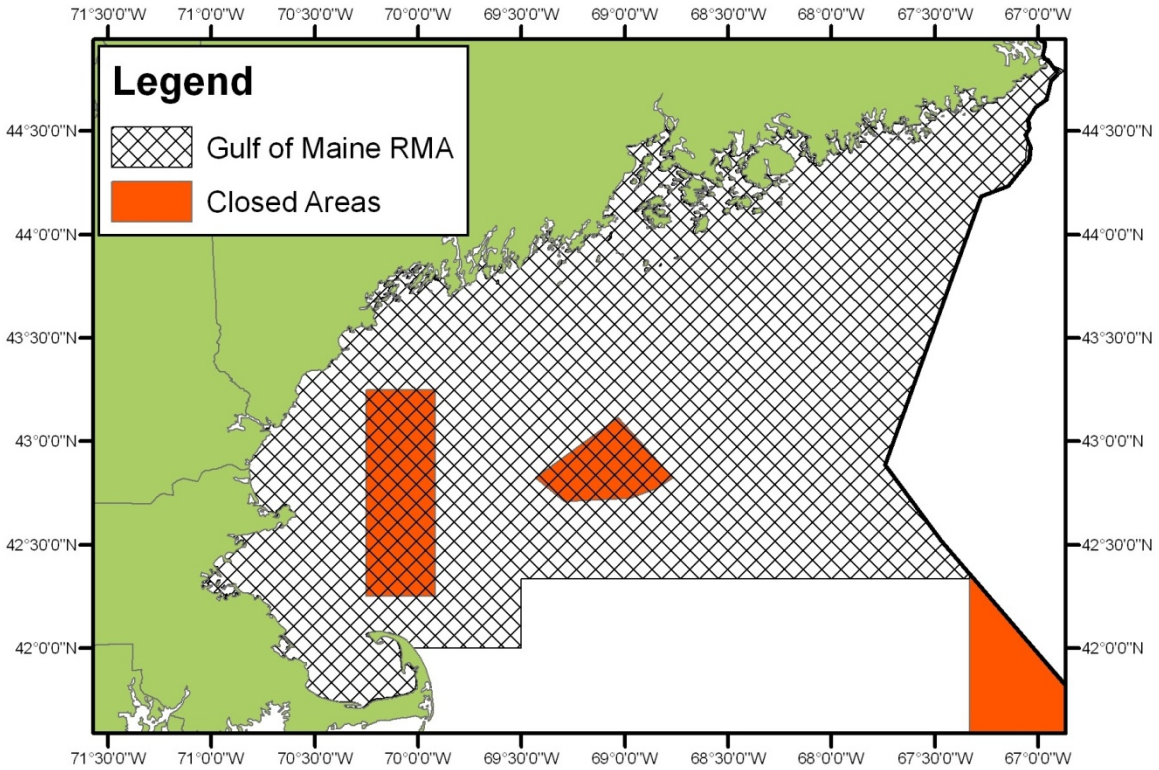


Figure 1 Gulf of Maine Regulated Mesh Area

Table 1 Alternative 1 (No-Action)

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

Table 2 Alternative 2 (Sectors Requesting the GOM Sink Gillnet Exemption & Discarding Exemption)

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

Table 3 Alternative 3 (New Exemptions plus additional previously approved exemptions)

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

3.4 CONSIDERED BUT REJECTED

In preparation of this EA, allowing sectors to propose either entirely new exemptions or variations of previously approved exemptions was considered. However, this alternative was considered unreasonable because sectors need to operate with additional exemptions within the current fishing year (FY2010). Allowing sectors to propose entirely new exemptions or changing already approved exemptions to the list of alternatives could result in implementation delays due to the timeframes associated with the additional analysis, impacts review and rule making. 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. Further, these exemptions are discrete measures which, by their nature, do not lend themselves to alternate configurations. The FY 2010 sectors will have an opportunity to propose any new or revised exemptions in their operations plans for FY 2011.

NMFS has proposed two new exemptions and is providing sectors the opportunity to include them in their revised FY2010 Operations Plans. These exemption are being considered because they will provide flexible fisheries management opportunites and can be fully analyzed and implemented within FY2010. The GOM sink gillnet exemption was orginally proposed for all limited access NE multispecies vessels under Amendment 16 and was therefore not included as a sector-specific exemption in the sector Operations Plans. Even though it was disapproved in Amendment 16 for all limited access NE multispecies vessels, the GOM sink gillnet exemption underwent analysis which could be incorporated into an impacts evaluation focusing on only sector vessels and be implemented within FY2010. NMFS is also offering sectors a discarding exemption as means to contend with operational and safety issues. The exemption is considered in this Supplemental EA as an efficient and effective means to address these discarding concerns within the FY2010 timeframe.

4.0 AFFECTED ENVIRONMENT

The attached EAs include detailed descriptions of the valued ecosystem components (VECs) which comprise the affected environment. Discussion of physical environment/habitat/EFH is included in Section 4.1 of the attached EAs and describes the primary geographic areas affected by the alternatives (Gulf of Maine, Georges Bank, and Southern New England), habitat, EFH and gear types. Allocated target species are addressed in Section 4.2 of the attached EAs, which includes species and stock status descriptions, assemblages of fish species, stock status trends, areas closed to fishing in the northeast region, and gear interactions. A discussion of non-allocated target species and bycatch, including spiny dogfish, skates and monkfish as well as gear interactions with these species, is included in Section 4.3 of the attached EAs. Protected resources are addressed in Section 4.4 of the attached EAs. This section discussed protected resources present in the area, protected species potentially affected, species not likely to be affected, and the interactions between gear and protected resources. Human communities within the affected environment are addressed in Section 4.5 of the attached EAs, and include an overview of the New England groundfish fishery and an overview of each sector. No changes to the description of the affected environment, as described in the attached EAs, have occurred with one exception. An erratum was issued for a minor modification to 10 of the 17 Final EAs. The modification involved replacing a table that was inserted incorrectly and did not result in new data or findings. The modification did not alter the analysis or the Findings of No Significant Impact which was signed on February 24, 2010 for the sector EAs. The full text of the errata can be found at http://www.nero.noaa.gov/sfd/sfdmultisectorinfo.html.

5.0 IMPACTS OF THE PROPOSED ACTION AND ALTERNATIVES

As discussed in more detail in the attached EAs, the increased flexibility granted to sectors through their approved Operations Plan should increase catch per unit of effort (CPUE), which would tend to decrease the number of days with gear in the water (gear days). However, the ability to target specific stocks could allow sectors to more fully exploit previously under-exploited stocks, which would tend to increase gear days. After reviewing theory and available information from Pacific fisheries management (Sanchirico et al. 2006), and discussing the issue with sector representatives and fishermen, it appears likely that the overall change in gear days would conservatively be a slight increase based on going from the DAS approach to the ACE approach of fisheries management. This assumption of an increase in gear days is carried through the following analysis of impacts.

NMFS surveyed sectors to determine if there was likely to be any consolidation of permits or redirection of effort as a result of forming sectors. The expectation of the sectors is that there will be no change in effort or consolidation as a result of sector operations, such that the nature and character of the groundfish fleet would be retained, including the general gear mix of the groundfish fleet. As of the May 1, 2010 roster, the gear mix of sector vessels is estimated to be 67 percent trawlers, 27 percent gillnetters, and the remaining 6 percent of vessels would use a mix of other gear including longlines, hooks, traps, or pots. The May 1, 2010 roster represents an approximately 10 percent (50 vessels) decrease in the total number of sector vessels relative to the January 2010 roster utilized in the February 2010 EA. Six of the eight exemptions in this Supplemental EA are specific to gillnet regulations. Based upon a review of gillnet declarations for FY2010, approximately 50 percent of all the gillnet vessels (240 vessels) in the groundfish fleet are associated with a sector.

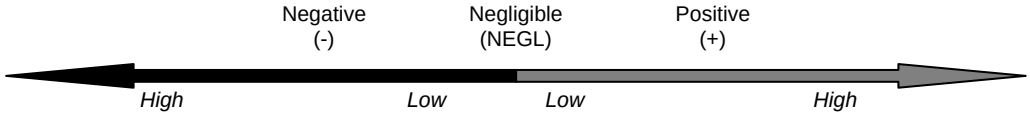
In order to capture the greatest extent of potential impacts associated with Alternative 3, the Proposed Action, the direct and indirect impacts associated with all sector vessels operating under the GOM sink gillnet exemption, the discarding exemption, and all other previously approved exemptions are analyzed in Section 5.1. However, sectors would only be approved to operate under additional exemptions that they requested.

Further evaluation of potential impacts to physical resources, allocated target species, non-allocated target species and bycatch, protected resources, and human communities is discussed further in Section 5.1. Cumulative impacts of the Proposed Action in combination with other past, present, and reasonably foreseeable actions are discussed in Section 5.2.

The impact terms used in this section are defined in the following table:

Table 4 Impact Terms

Impact Definition			
	Direction		
VEC	**Positive (+)**	**Negative (-)**	**Negligible (Negl)**
Allocated target species, other landed species, and protected resources	Actions that increase stock/population size	Actions that decrease stock/population size	Actions that have little or no positive or negative impacts on stocks/populations
Habitat	Actions that improve the quality or reduce disturbance of habitat	Actions that degrade the quality or increase disturbance of habitat	Actions that have no positive or negative impact on habitat quality
Human Communities	Actions that increase revenue and social well being of fishermen and/or associated businesses	Actions that decrease revenue and social well being of fishermen and/or associated businesses	Actions that have no positive or negative impact on revenue and social well being of fishermen and/or associated businesses
Impact Qualifiers:			
Low (L, as in low positive or low negative)	To a lesser degree		
High (H; as in high positive or high negative)	To a substantial degree		
Likely	Some degree of uncertainty associated with the impact		



5.1 DIRECT AND INDIRECT IMPACTS OF THE PROPOSED ACTION AND NO-ACTION ALTERNATIVES

The potential impacts of the universal exemptions and general requirements of sector operation (e.g., Operations Plan) are evaluated in the Amendment 16 Final EIS in accordance with NEPA requirements (NEFMC 2009). A detailed discussion of potential impacts of requested Sector-specific exemptions that went into effect on May 1, 2010 are provided in detail in Sections 5.1.1 through 5.1.5 of the attached EAs. The description of the No-Action Alternative (i.e. Alternative 1) is equivalent to the Proposed Action from the attached EAs. However, under this supplemental EA, the effects of the No-Action Alternative mean a lack of further flexible fishery management for additional sector vessels. The No-Action Alternative serves as the baseline scenario as it represents a continuation of the current condition, including the operation of all sectors under exemptions approved for May 1, 2010.

In addition to the No-Action Alternative, the following sections evaluate the potential impacts of the GOM sink gillnet and discarding exemptions (i.e. Alternative 2). The impacts from these new exemptions plus impacts of all sectors operating under all previously approved exemptions that were

not requested for the start of the 2010 FY (i.e., Alternative 3) is also evaluated. The impacts from each sector's exemptions to each individual VEC are summarized at the end of each VEC subsection below, and impacts to all VECs from all alternatives are summarized in Table 5.

Summary of Conclusions of Impacts from Alternatives

Table 5 provides a summary of conclusions regarding direct and indirect impacts that would occur as a result of the GOM sink gillnet and discarding exemption, as well as the Sector-specific exemptions. Impacts of additional exemptions would vary from low negative to low positive, but would not be significant (see Table 5). Additional discussion on potential impacts to physical environment/habitat/EFH, allocated target species, non-allocated target species and bycatch, protected resources, and human communities is provided in Sections 5.1.1 through 5.1.5.

Table 5 Summary of Direct and Indirect Effects of the Alternatives

	Valued Ecosystem Components (VECs)					
	Physical Environment	**Biological Environment**			**Human Communities**	
ALTERNATIVE	**Physical Env./Habitat (incl. EFH)**	**Allocated Target Species**	**Non-allocated Target Species and Bycatch**	**Protected Resources**	**Ports**	**Sector Participants**
Alt 1- No-Action Alternative*	Negl	Negl	Negl	Negl	L(-)	L(-)
Alt 2 – Impacts from SINK GILLNETS only	Likely Negl	Negl	Likely Negl	L(-)	L(+)	L(+)
Impacts from DISCARDING only	Negl	Negl	Negl	Negl	L(+)	L(+)
Impacts from SINK GILLNETS + DISCARDING	*Likely Negl*	*Negl*	*Likely Negl*	*L(-)*	*L(+)*	*L(+)*
Alt 3 –						
120 day gillnet block	Likely Negl	Negl	Negl	L(-)	L(+)	L(+)
20-day spawning block	Likely Negl	Negl	Negl	L(-)	L(+)	L(+)
Gillnet limit	Likely Negl	Likely Negl	Likely Negl	L(-)	L(-)	L(+)
Community fixed gear	Likely Negl	Negl	Negl	Likely Negl	L(-)	L(+)
50-net limit with DAS	Negl	Negl	L(-)	Negl	L(+)	L(+)
Limit on # of hooks	Negl	Negl	Likely Negl	Negl	L(-)	L(+)
DAS leasing size and HP restrictions	Negl	Negl	Negl	Negl	L(+)	L(+)
Summary of Impacts from SINK GILLNETS + DISCARDING + All OTHER Exemptions	**Likely Negl**	**Negl**	**Negl**	**L(-)**	**Mixed**	**L(+)**

* As introduced in Section 5.1, the No-Action Alternative serves as the baseline scenario as it represents a continuation of the current condition (i.e. operation of all sectors under exemptions approved for May 1, 2010). However, note that under this action, the effects of the No-Action Alternative mean a lack of further flexible fishery management for additional sector vessels.

5.1.1 Physical Environment/Habitat/EFH

For the purpose of this analysis, the physical environment is defined as the sub-regions comprised of the Gulf of Maine, Georges Bank, the southern New England/Mid-Atlantic areas, and the continental slope. EFH is defined by the SFA as "[t]hose waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity".

This section identifies impacts to the physical environment/habitat/EFH associated with the exemptions in Alternatives 2 and 3 compared to impacts associated with the No-Action Alternative (Alternative 1).

5.1.1.1 GOM Sink Gillnet

This exemption allows vessels the opportunity to target haddock by allowing for a smaller minimum mesh size to be used within the GOM RMA from January through April. Because catch of allocated target species is limited by sector ACE, the threat of additional fishing pressure on rebuilding stocks of GOM cod is minimized. While it is conservatively assumed that gear days would increase as a result of this measure, because more gillnets may be deployed in the GOM RMA during this time, sector vessels' fishing effort is ultimately limited by sector ACEs. Compared to mobile, bottom-tending fishing gear like trawls, bottom gillnets have negligible to minor impacts on benthic habitats (NEFSC 2002). These impacts would not be different from impacts that are occurring due to current fishing practices (gillnetting during January-April using 6.5 inch rather than 6 inch mesh nets); therefore it would be expected this exemption would likely result in a negligible impact to physical environment/habitat/EFH with implementation of this exemption to all sector gillnet vessels (Alternative 2 and Alternative 3) relative to the No-Action Alternative.

No differences in impacts are expected between the Proposed Action and the No-Action Alternative s. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, FGS, SHS, PCS and TSS sectors for approval under Alternative 2 or Alternative 3. It is noted that since this supplemental EA analyzes the GOM Sink Gillnet exemption for the maximum number of gillnets that could be fished by sector Day gillnet vessels (up to 150 nets); the impacts associated with the implementation of this exemption are the same under Alternative 2 and Alternative 3.

5.1.1.2 Discarding

This exemption would allow sector vessels on a sector trip to discard fish at sea that are considered unmarketable. The exemption would only apply to sector vessels, all of which are subject to an ACE. Fish discarded under this exemption would still be applied to the vessel's sector ACE through observer data or through sector-specific discard rates for unobserved trips. Fish discarded for reason of unmarketability would be recorded by at-sea monitors on observed trips or incorporated into the sector's specific discard rates by stock and gear strata for unobserved trips. Since sectors are capped by an ACE the ability to discard fish at sea would not result in an increase in fishing effort/gear days. Therefore, this exemption would result in negligible impact to physical environment/habitat/EFH with implementation of this exemption to all sector vessels (Alternative 2 and Alternative 3) relative to the No-Action Alternative.

No differences in impacts are expected between the Proposed Action and the No-Action Alternative s. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-VI, NEFS-VII, NEFS-XI through NEFS-XIII, FGS, SHS, PCS and TSS sectors for approval under Alternative 2 or Alternative 3.

5.1.1.3 120 Day Gillnet Block

This exemption was previously approved for gillnet vessels in the NEFS-III, NEFS-XI, FGS, SHS, PCS, and TSS sectors. Exempting sector gillnet vessels from the 120-day block out could increase the catch per unit effort (CPUE) and thereby decrease fishing time and bottom contact for the fishing gear. Since sector gillnet vessels would operate under an ACE, a minor increase in CPUE would result in fewer gear days and thereby reduce impacts to the physical environment/habitat/EFH.

However, the ability to target specific stocks may result in an increase in gear days. Therefore, for the purposes of this assessment, it was conservatively assumed that this exemption would result in a minor increase in gear days as sector gillnet vessels would have the ability to fish during an additional 120 days if ACE were not attained. Nevertheless, gillnets result in low impacts to the physical environment/habitat/EFH. These impacts are not different from impacts that are occurring due to current fishing practices; therefore, when compared to the No-Action Alternative, it would be expected this exemption would likely result in a negligible impact to physical environment/habitat/EFH with implementation of this exemption to all sector gillnet vessels.

No differences in impacts are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-V through NEFS-VIII, NEFS-X, and NEFS-XII sectors for additional approval under the Proposed Action.

5.1.1.4 20-Day Spawning Block

This exemption was previously approved for all vessels in the SHS, TSS, and NECC sectors. The 20-day spawning block was imposed as a means of controlling mortality with associated benefits of providing protection for spawning aggregations. Providing sector members access to spawning blocks with large numbers of spawning fish could reduce impacts to physical resources somewhat by increasing CPUE and thereby decreasing fishing time and bottom contact time for the fishing gear. Since sectors members would operate under an ACE, a minor increase in CPUE would result in fewer gear days and thereby less impacts to physical environment/habitat/EFH. The ability to target specific stocks may also result in an increase in gear days; however, as the potential to utilize an additional 20 days would not result in a large difference in the available amount of fishing time, it would be expected this exemption would likely result in a negligible impact to physical environment/habitat/EFH with implementation of this exemption to all sectors.

No differences in impacts are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NFSC-II, NEFS-III, NEFS-V through NEFS-XIII, FGS and PCS sectors for additional approval under the Proposed Action.

5.1.1.5 Gillnet Limit

This exemption was previously approved for the gillnet vessels in the SHS sector. This exemption would increase the limit on the number of gillnets imposed on the Day gillnet category to 150 nets per permit in all RMAs. The current requirements restrict Day gillnet vessels from fishing more than: 100 gillnets (of which no more than 50 can be roundfish gillnets) in the GOM RMA; 50 gillnets in the GB RMA; and 75 gillnets in the Southern New England and Mid-Atlantic RMAs. The existing gillnet number restrictions were implemented to reduce fishing effort and fishing mortality. It also had the effect of reducing the potential that gear would be left unattended to “hold” fishing ground. While sector members would operate under an ACE, increasing the number of gillnets in use could result in an increase in gear days and thereby impacts to physical environment/habitat/EFH. However, the use of gillnets results in low degree impacts (NEFSC 2002). Therefore, the implementation of this exemption for all sector gillnet vessels would likely result in a negligible impact to the physical environment/habitat/EFH relative to the No-Action Alternative.

No differences in impacts to physical environment/habitat/EFH are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, FGS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.1.6 Community Fixed Gear

This exemption was previously approved for the gillnet vessels in the NEFS-III and the NEFS-XI sectors. The use of community fixed gear would allow gillnet fishermen within their separate sectors the ability to share stand-up and tie-down gillnet gear. Gillnet fishermen would rotate trips to check the gear and harvest fish. This exemption has the potential that gear would be left unattended to "hold" fishing ground. The ability to use community gear could theoretically result in ghost fishing and an associated increase in gear days; however, it is not expected that this potential would increase relative to the current fishing practice. It could also increase catch per gear day, which would tend to decrease overall gear days. In addition, the use of gillnets results in low degree impacts (NEFSC 2002). Therefore, the implementation of this exemption for all sector gillnet vessels would likely result in a negligible impact to physical environment/habitat/EFH relative to the No-Action Alternative.

No differences in impacts to the physical environment/habitat/EFH are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-V through NEFS-VIII, NEFS-X, NEFS-XII, FGS, SHS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.1.7 50 Net Limit on DAS

This exemption was previously approved for gillnet vessels in the FGS. This exemption would remove the limit on the number of gillnets (currently set at 50 nets) that may be hauled on Georges Bank when fishing under a groundfish/monkfish DAS. This exemption does not permit the use of additional nets; it would only allow nets deployed under existing net limits, according to the Monkfish FMP, to be hauled more efficiently by vessels dually permitted under both FMPs. The net hauling restriction serves to distribute a fixed fishing effort among more fishermen. Because sector members would still be bound by ACE and existing net limits, the exemption would allow them to increase efficiency when fishing under DAS. Since the number of nets would not be increasing, there would not be an increase in gear days. In addition, the use of gillnets results in low degree impacts (NEFSC 2002). The implementation of this exemption for all sector gillnet vessels would result in a negligible impact to the physical environment/habitat/EFH relative to the No-Action Alternative.

No differences in impacts to physical environment/habitat/EFH are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, SHS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.1.8 Limit on Number of Hooks

This exemption was previously approved for vessels in the FGS. The existing hook limit restriction serves to reduce fishing effort, fishing mortality, and the potential that gear could be used to "hold" fishing ground. An exemption from this would allow sector members to fish an unlimited number of circle hooks a day. Since longlines have a low impact on physical environment/habitat/EFH, implementing this exemption for all sectors would result in negligible impacts on physical environment/habitat/EFH relative to the No-Action Alternative.

No differences in impacts to physical environment/habitat/EFH are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II,

NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, SHS, PCS, TSS and NECC sectors for additional approval under the Proposed Action.

5.1.1.9 DAS leasing size and Horsepower (HP) restrictions

This exemption was previously approved for vessels in the SHS and TSS sectors. The original purpose of the length and horsepower restrictions on DAS leasing was to maintain the character of the fleet. However, the relief sought by sector fisherman under exemption is related to retention of monkfish and skates harvested while vessels participate in the multispecies fishery. Among Common Pool participants, groundfish DAS allow a vessel to land and retain an increased quantity of monkfish or skates under some circumstances. While groundfish sector fishermen would be exempt from DAS regulation for allocated target species, they would still need to expend groundfish DAS to land and retain an increased quantity of monkfish or skates under some circumstances. Implementation of this exemption for all sectors would allow for more efficient distribution of DAS, but it would not be expected to increase fishing effort as the total number of DAS allocated to the fishery would not increase. Thus, there would be a negligible impact to physical environment/habitat/EFH associated with this exemption relative to the No-Action Alternative.

No differences in impacts to physical environment/habitat/EFH are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II through NEFS-XIII, and the PCS sectors for additional approval under the Proposed Action.

5.1.1.10 Summary of Direct/Indirect Impacts to Physical/Habitat/EFH

There are six gillnet-specific exemptions discussed above. Gillnet vessels comprise approximately one-third of the sector fleet. Gillnets have negligible impacts to sand and gravel habitats, and impacts to muddy substrates by contact with lead lines and anchors would persist on the order of days to months. These impacts are not different from impacts that are occurring due to current fishing practices. Fishing effort would not likely increase as a result of implementing the gillnet exemptions discussed above; therefore it would be expected that negligible impacts to physical environment/habitat/EFH would likely result when compared to the No-Action Alternative.

Three exemptions are not specific to gillnet gear. Allowing sectors to discard at sea, operate without hook limits on longlines, and removing restrictions on vessel size and horsepower for DAS leasing would result in negligible impacts on physical environment/habitat/EFH relative to the No-Action Alternative.

In summary, implementation of all of the exemptions discussed above (i.e., Alternative 3) would likely result in negligible impacts to physical environment/habitat/EFH compared to the No-Action Alternative.

It would be expected that implementation of the GOM Sink Gillnet exemption and the discarding exemption (i.e. Alternative 2) would likely result in negligible impacts on physical environment/habitat/EFH relative to the No-Action Alternative.

The No-Action Alternative (i.e. Alternative 1) would result in negligible impacts on physical environment/habitat/EFH since fishing effort would not increase over the current baseline level.

5.1.2 Allocated Target Stocks

For the purpose of this analysis, there are 14 allocated target groundfish stocks (GOM cod, Georges Bank [GB] cod, GOM haddock, GB haddock, American plaice, witch flounder, GOM winter flounder,

GB winter flounder, Cape Cod/GOM yellowtail flounder, GB yellowtail flounder, southern New England/Mid-Atlantic [SNE/MA] yellowtail flounder, redfish, pollock, and white hake). These stocks are managed under the Northeast Multispecies FMP.

This section identifies impacts to the allocated target stocks associated with the exemptions in Alternatives 2 and 3 compared to impacts associated with the No-Action Alternative (Alternative 1).

5.1.2.1 GOM Sink Gillnet

As discussed in Section 4.3.2.2 of Amendment 16, recent experiments have demonstrated that few haddock are likely to be caught with gillnets of the current minimum size (6.5 inch mesh) and a reduced mesh size (6 inch mesh) might improve the ability for gillnets to target haddock. The expectation in this measure is that reducing the minimum mesh size would allow gillnets to catch more haddock and haddock mortality would increase as a result. The exemption would be limited to a four month period (January 1, 2011 through April 30, 2011). GOM haddock stock is not overfished, nor is overfishing occurring. GOM haddock and is considered a "healthy" stock, which should be available for harvest. GOM cod is not overfished, but overfishing is occurring. Pollock is not overfished and overfishing is not occurring[3]. Consequently, GOM cod must have greater protection in order to reach the rebuilding goals specified by the FMP, as well as subsequent framework adjustments and amendments. Though the exemption is limited to the GOM RMA, the GOM RMA also overlaps stock areas for GB and SNE/MA stocks. SNE/MA winter flounder, in particular, is overfished and required a 100% reduction in fishing mortality under Amendment 16. Reducing the minimum mesh size during this period could potentially increase catch of SNE/MA winter flounder, and other GB and SNE/MA stocks; however, overall mortality would be limited by the sector's ACE for allocated stocks. Additionally, tie-down nets would not be permitted to be used by participating vessels, so impacts to flatfish would be minimized.

Day gillnet sector vessels could potentially fish up to 150 nets in the GOM RMA depending on current regulations and the combination of exemptions a sector is granted. The exemption would not limit the number of nets that could be used by Trip gillnet vessels. However, it is unlikely that increasing the number of nets that can be fished in the GOM RMA would affect the overall catch of allocated stocks since fishing mortality by sector vessels would be regulated by ACE for each of these stocks. The impacts of this exemption are not different from impacts that are occurring due to current fishing practices; therefore, relative to the No-Action Alternative, it would be expected that this exemption would result in a negligible impact to allocated target species with implementation of this exemption to all sector gillnet vessels.

If the exemption is not approved, sink gillnet vessels would have limited opportunities to fully capitalize on the available GOM haddock ACE and would be fairly ineffective at doing so because of mesh size. A recent gillnet selectivity study (Marciano et al. 2005) has suggested that few haddock are likely to be caught with six and a half inch mesh sink gillnets and a reduced mesh size might improve the ability for gillnets to target haddock. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, FGS, SHS, PCS and TSS sectors for approval under Alternative 2 or Alternative 3. It is noted that since this supplemental EA analyzes the GOM Sink Gillnet exemption for the maximum number of gillnets that could be fished by sector Day gillnet vessels (up to 150 nets); the impacts associated with the implementation of this exemption are the same under Alternative 2 and Alternative 3.

[3] The status of pollock is being evaluated in the 50th Northeast Regional Stock Assessment (SAW 50). Preliminary information suggests that pollock is in an improved status. However, as the peer review for this assessment is not expected to be completed until June 2010 a revised status for the pollock stock will not be available until the final report is issued.

5.1.2.2 Discarding

This exemption would allow sector vessels on a sector trip to discard fish at sea that are considered unmarketable. The exemption would only apply to sector vessels, all of which are subject to an ACE. Fish discarded under this exemption would still be applied to the vessel's sector ACE through observer data or through sector-specific discard rates for unobserved trips. Fish discarded for reason of unmarketability would be recorded by at-sea monitors on observed trips or incorporated into the sector's specific discard rates by stock and gear strata for unobserved trips. Since discarded fish are already deceased and would still count against a sector's ACE, the implementation of this exemption to all sector vessels would result in negligible impact to allocated target species (Alternative 2 and Alternative 3) relative to the No-Action Alternative.

No differences in impacts are expected between the Proposed Action and the No-Action Alternative. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-VI, NEFS-VII, NEFS-XI through NEFS-XIII, FGS, SHS, PCS and TSS sectors for approval under Alternative 2 or Alternative 3.

5.1.2.3 120 Day Gillnet Block

This exemption was previously approved for gillnet vessels in the NEFS-III, NEFS-XI, FGS, SHS, PCS, and TSS sectors. Currently, non-exempt sector gillnet vessels must take a total of 120 days out of the gillnet fishery during the fishing year. Each period of time taken must be a minimum of 7 consecutive days. At least 21 days of this time must be taken between June 1st and September 30th of each fishing year. A 20-day spawning season time out period is credited toward the 120 days time out of the gillnet fishery.

These block out requirements were implemented to reduce the possibility that gillnet vessels could compensate for other effort reduction measures by extending soak time between trips. The requirement to take time out during the summer months was intended to apply the time out requirement when seasonal gillnet activity is highest. These gillnet regulations were authorized under various frameworks as a means to limit fishing mortality by vessels using gillnets to the same extent that vessels using other gear types were restricted by cuts in allocated DAS and specific gear requirements.

The result of this exemption would be to allow gillnet sector vessels to redistribute fishing effort over the year, as opposed to adhering to the entire block out. The effects to allocated target stocks would be controlled by an ACE. Therefore, it is reasonable to expect that sector vessels could exercise an option to increase fishing effort if they have not achieved their ACE for any stock within that stock area. Because sector members would operate under an ACE, an exemption would increase the operational flexibility of sector vessels while maintaining the mortality control rationale for the measure. These impacts are not different from impacts that are occurring due to current fishing practices; therefore, relative to the No-Action Alternative, it would be expected that this exemption would result in a negligible impact to allocated target species with implementation of this exemption to all sector gillnet vessels.

No differences in impacts to allocated target stocks are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-V through NEFS-VIII, NEFS-X, and NEFS-XII sectors for additional approval under the Proposed Action.

5.1.2.4 20-Day Spawning Block

This exemption was previously approved for all vessels in the SHS, TSS, and NECC sectors. The original requirement for the 20-day spawning block was implemented as a mortality-control measure with associated benefits to provide protection for spawning aggregations. This exemption would allow vessels from all approved sectors to be exempted from the 20-day spawning out of the fishery that Common Pool and non-exempt vessels must take during the peak period for cod spawning. A potential effect of exempting vessels is to increase harvest of actively spawning groundfish and to disrupt spawning behavior, which would have a proportionally greater effect on stock production than harvest of non-spawning cod. However, the lower quality and lower price of spawning fish creates disincentive for vessels to target them. The 20-day spawning block is required to be taken between March 1 and May 31, but has no other temporal or spatial restrictions. Therefore, an exemption from this restriction would not necessarily directly result in increased effort in the GOM on spawning stocks as vessels could fish on Georges Bank or Southern New England instead. Furthermore, exempt vessels would still be subject to the GOM Rolling Closure Areas, which are specifically designed to protect spawning aggregations.

Sector members would operate under ACEs for allocated target species. Once an ACE is achieved for any allocated target stock, sector members must stop fishing in that stock area with any gear capable of catching groundfish unless additional ACE is obtained. The potential result of this exemption is for sector vessels to redistribute fishing effort over the year, as opposed to the non-exempt vessels which adhere to the block out. Under this exemption, increased fishing effort may occur at a time and in areas where fish are aggregating, so spawning fish could make up a larger proportion of the Sector's catch. However, the potential impact of this exemption is controlled predominantly by the ACEs for each allocated target stock. Overall, the effect of exempting all sector gillnet vessels from the 20-day block out relative to currently exempt sector fishing vessels, regardless of any changes in fishing effort, would be a negligible impact on allocated target stocks.

No differences in impacts to allocated target stocks are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NFSC-II, NEFS-III, NEFS-V through NEFS-XIII, FGS and PCS sectors for additional approval under the Proposed Action.

5.1.2.5 Gillnet Limit

This exemption was previously approved for the gillnet vessels in the SHS sector. This exemption proposes to increase the number of nets for Day gillnetters per permit, removing an effort control and resulting mortality control related to the number of nets per vessel. The proposed exemption could result in longer soak times because of the time required to retrieve and process more nets than would be allowed per non-exempt fishing vessel. Longer soaks could result in undocumented groundfish mortality due to losses such as predation and net drop-out. Longer soaks could also result in groundfish mortality that is neither recorded, nor applied to the sector's ACE as untended gillnets "ghost fish". However, fishermen must abide by the sector harvest rule of not soaking nets longer than 7 days and untended gillnets can lead to loss of nets, providing an incentive for fishermen to haul nets more frequently. There may also be increased discards due to predation damage which would be undocumented if the entire fish is consumed. Only those damaged fish that are brought aboard and subsequently discarded would be documented. To the extent that undocumented losses occur, there is the potential for an increased mortality rate on allocated target stocks. In comparison, non-exempt sector vessels would have less potential for undocumented groundfish mortality.

Despite the potential for an increase in undocumented allocated target species mortality under this exemption, all of the catch of allocated target stocks would count against the sector's ACE. Therefore, implementation of this exemption to all sector gillnet vessels would likely result in a negligible impact to allocated target species relative to the No-Action Alternative.

No differences in impacts to allocated target stocks are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, FGS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.2.6 Community Fixed Gear

This exemption was previously approved for the gillnet vessels in the NEFS-III and the NEFS-XI sectors. This proposed exemption would allow sector gillnet fishermen the ability to share stand-up and tie-down gillnet gear. Gillnet fishermen would rotate trips to check gear and harvest fish. There is some potential that this sharing may lead to a reduction in the number of nets deployed at one time, compared with the non-exempt vessels who would deploy and retrieve nets individually. It is perhaps equally likely that inattention to nets may result in some level of untended or "ghost fishing". However, it is assumed that for the purpose of this analysis that those vessels, whether they are exempt or not, would equally comply with federal law and not leave nets unattended to hold ground or impact biological resources through ghost fishing.

Regardless of whether the number of nets or their placement changes with respect to the non-exempt vessels, all of the catch of allocated target stocks would count against the sector's ACE. Thus, the sector's gillnets would have to be removed once any ACE was reached. Overall, the implementation of this exemption for all sector gillnet vessels would likely result in a negligible impact to allocated target stocks relative to the No-Action Alternative.

No differences in impacts to allocated target stocks are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-V through NEFS-VIII, NEFS-X, NEFS-XII, FGS, SHS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.2.7 50 Net Limit on DAS

This exemption was previously approved for gillnet vessels in the FGS. This exemption would remove the restriction on the number of nets that could be hauled when fishing to a possible maximum of 150 nets, which is already the maximum number of nets now allowed in possession. In comparison, non-exempt vessels would be restricted to hauling only 50 nets per trip when fishing the Georges Bank RMA under the DAS system. The impacts of this exemption on allocated target stocks would be limited by their use of the exemption only when specifically targeting monkfish under the Monkfish FMP. Additional net use while targeting monkfish could increase the by-catch of allocated target stocks during a monkfish DAS for exempt sector participants compared to non-exempt fisherman. The allocated target stocks caught while targeting monkfish would count against the sector's ACE for those stocks. Therefore, the implementation of this exemption for all sector gillnet vessels would result in a negligible impact to the allocated target stocks relative to the No-Action Alternative.

No differences in impacts to allocated target stocks are expected between the Proposed Action and the No-Action Alternative. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III,

NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, SHS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.2.8 Limit on Number of Hooks

This exemption was previously approved for the vessels in the FGS. The existing hook limit restriction functions to reduce fishing effort, fishing mortality, and the potential that gear could be used to "hold" fishing ground. Vessels operating within a sector would achieve comparable conservation benefits with ACEs for each species. However, exempting sector vessels from the hook limit measure could result in longer soak times or gear left unattended to hold fishing ground, potentially resulting in groundfish mortality that is neither reported nor applied to sector ACE. This impact would be limited, however, by the relatively small percentage (6%) of sector vessels that operate a mix of gear which includes longlines, hooks, traps, and pots.

Hook fishing is noted by NMFS to strongly limit catch of "flatfishes," which are the category of stocks of greatest conservation concern. Increasing the number of hooks per set has the potential to protect weaker stocks of flatfish and thus provide some conservation benefits to these species relative to targeting the multispecies complex with some other gear types. The effects to groundfish, particularly flatfishes, would be limited by the ACE allocated to each sector since sector vessels must cease fishing in that stock area with any gear capable of catching groundfish one it achieves their ACE unless the sector obtains more ACE. Therefore, relative to the No-Action Alternative, the implementation of this exemption for all sector vessels would result in a negligible impact to the allocated target stocks.

No differences in impacts to allocated target stocks are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, SHS, PCS, TSS and NECC sectors for additional approval under the Proposed Action.

5.1.2.9 DAS leasing size and HP restrictions

This exemption was previously approved for the vessels in the SHS and TSS sectors. The original purpose of the length and horsepower restrictions on DAS leasing was to maintain the character of the fleet. However, the relief sought by sector fisherman under this exemption is related to retention of monkfish and skates harvested while vessels participate in the multispecies fishery. Among Common Pool participants, groundfish DAS allow a vessel to land and retain an increased quantity of monkfish or skates under some circumstances. While groundfish sector fishermen would be exempt from DAS regulation for allocated target species, they would still need to expend groundfish DAS to land and retain an increased quantity of monkfish or skates under some circumstances. Implementation of this exemption for all sectors would allow for more efficient distribution of DAS, but it would not be expected to increase fishing effort as the total number of DAS allocated to the fishery would not increase. Thus, relative to the No-Action Alternative, its implementation for all sectors would have negligible effects on allocated target stocks.

No differences in impacts to allocated target stocks are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II through NEFS-XIII, and the PCS sectors for additional approval under the Proposed Action.

5.1.2.10 Summary of Direct/Indirect Impacts to Allocated Target Stocks

There are six gillnet-specific exemptions discussed above. Gillnet vessels comprise approximately one-third of the sector fleet. Regardless of whether the number of nets or their placement changes with respect to the non-exempt vessels, all of the catch of allocated target stocks would count against the sector's ACE. Thus, the sector's gillnets would have to be removed once any ACE was reached and it is expected that negligible impacts to allocated target stocks would likely result when compared to the No-Action Alternative.

The other three exemptions are not specific to gillnet gear. Allowing sectors to discard at sea, operate without hook limits on longlines, and to remove restrictions on vessel size and horsepower for DAS leasing would result in negligible impacts on allocated target stocks relative to the No-Action Alternative.

In summary, implementation of all of the exemptions discussed above (i.e., Alternative 3) would result in negligible impacts to allocated target stocks relative to the No-Action Alternative. No differences in impacts to allocated target stocks are expected between the Proposed Action and the No-Action Alternatives.

It is expected that implementation of the GOM Sink Gillnet exemption and the discarding exemption (i.e. Alternative 2) would result in negligible impacts on allocated target stocks compared to the No-Action Alternative.

The No-Action Alternative (i.e. Alternative 1) would result in negligible impacts to allocated target stocks since fishing effort would not increase over the current baseline level.

5.1.3 Non-allocated Target Species and Bycatch

Non-allocated target species and bycatch are defined in Section 2.0 of the attached Sector EAs and may include a broad range of species. For purposes of this assessment, and following the convention established in Amendment 16 EIS, the non-allocated target species and bycatch most likely to be affected by sectors operation include spiny dogfish, skates, and monkfish, typically the top three species caught along with allocated target species.

This section identifies impacts to the non-allocated target species and bycatch associated with the exemptions in Alternatives 2 and 3 compared to impacts associated with the No-Action Alternative (Alternative 1).

5.1.3.1 GOM Sink Gillnet

For the purposes of this supplemental EA it is assumed that a maximum of 150 gillnets of a smaller mesh size could be fished by sector day gillnet vessels in the GOM RMA. This represents a potential increase from the current regulations which restrict vessels to 100 gillnets in the GOM RMA. The proposed exemption could result in longer soak times because of the time required to retrieve and process more nets than would be allowed per non-exempt Sector vessel. Longer soaks could result in undocumented mortality of non-allocated target species and bycatch due to losses such as predation and net drop-out. Longer soaks could also result in groundfish mortality that is not documented in untended gillnets. However, fishermen must abide by the sector harvest rule of not soaking nets longer than 7 days. Additionally, untended gillnets can lead to loss of nets, providing an incentive for fishermen to haul nets more frequently. There may also be increased discards due to predation damage which would be undocumented if the entire fish is consumed. Only those damaged fish that are brought aboard and subsequently discarded would be documented. To the extent that

undocumented losses occur, there is a potential for an increased mortality rate on non-allocated target species and bycatch. As established, there is no reason to expect that potential increased net use analyzed under this exemption would differentially impact non-allocated target species and bycatch.

Even though there is potential for certain mechanisms to create greater mortality in non-allocated species and bycatch, all catch of allocated target stocks would count against the sector's ACE, and sector nets would have to be removed once an ACE was reached in that stock area. Therefore, the impact on non-allocated target species and bycatch would be expected to be directly related to the conduct of operations for allocated target stocks. While it may be that the smaller mesh net retains more or less skates, monkfish, or spiny dogfish, there is no experimental data to support either conclusion. Participating vessels would not be allowed to use tie-down nets as part of this exemption. This would minimize the incidence of skate and monkfish catch as typically flatfish nets are used to target these species. Overall, approving this exemption (Alternative 2 or Alternative 3) for all sector vessels would be likely to have negligible impacts on non-allocated target species and bycatch relative to the No-Action Alternative.

Under the No-Action Alternative impacts to non-allocated target species and bycatch would be negligible since fishing effort would not increase over the current baseline level. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, FGS, SHS, PCS and TSS sectors for approval under Alternative 2 or Alternative 3. It is noted that since this supplemental EA analyzes the GOM Sink Gillnet exemption for the maximum number of gillnets that could be fished by sector Day gillnet vessels (up to 150 nets); the impacts associated with the implementation of this exemption are the same under Alternative 2 and Alternative 3.

5.1.3.2 Discarding

This exemption is primarily aimed at resolving operational and safety issues. The exemption would only apply to sector vessels, all of which are subject to an ACE. Therefore, the impact associated with the implementation of this exemption to all sector vessels on non-allocated target species (spiny dogfish, monkfish, skates) and bycatch (including non-legal-sized allocated fish species) is expected to be negligible as fishing effort would not be expected to increase.

Catch of unmarketable legal-sized fish of allocated species would still be applied to the vessel's sector ACE and accurately accounted for by a sector-specific discard rate via observer data or through sector-specific discard rates for unobserved trips. Fish discarded for reason of unmarketability would be recorded by at-sea monitors on observed trips or incorporated into the sector's specific discard rates by stock and gear strata for unobserved trips. As the discarded fish are already deceased, discard mortality would not increase with this exemption. Therefore, it is expected this exemption would likely result in a negligible impact to non-allocated target species and bycatch with implementation of this exemption to all sector vessels.

No differences in impacts are expected between the Proposed Action and the No-Action Alternative. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-VI, NEFS-VII, NEFS-XI through NEFS-XIII, FGS, SHS, PCS and TSS sectors for approval under Alternative 2 or Alternative 3.

5.1.3.3 120 Gillnet Block

This exemption was previously approved for gillnet vessels in the NEFS-III, NEFS-XI, FGS, SHS, PCS, and Tri-State sectors. The result of this exemption is to allow sector gillnet vessels to redistribute fishing effort over the year, as opposed to adhering to the block out. The magnitude of the

impacts of this exemption is controlled predominantly by the ACEs for each allocated target stock. Based on the assumption of a relatively constant ratio of non-allocated target species and bycatch to allocated target stocks, ACEs would also function as a dominant control to limit impacts to non-allocated target species and bycatch. Additionally, non-allocated species such as monkfish, dogfish, and skates have management measures in place to limit the catch of these species and control mortality regardless of the time of year. The use of up to 150 nets total in each RMA is consistent with the monkfish FMP. Monkfish mortality is also limited by DAS and trip limits. To land skates, sector vessels would have to use a Category A DAS. Fishing effort on skates is further restricted by trip limits. Landing dogfish does not require the use of a DAS, but sector vessels would still be restricted by the 3,000 pounds-per-trip landings limit and quotas. The impacts associated with this exemption are not different from impacts that are occurring due to current fishing practices; therefore it is expected this exemption would result in a negligible impact to non-allocated target species and bycatch with implementation of this exemption to all sector gillnet vessels.

No differences in impacts for non-allocated target species and bycatch are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-V through NEFS-VIII, NEFS-X, and NEFS-XII sectors for additional approval under the Proposed Action.

5.1.3.4 20-Day Spawning Block

This exemption was previously approved for all vessels in the SHS, TSS, and NECC sectors. This exemption would allow all approved sector vessels to be exempted from the 20-day spawning block of the fishery that those non-exempt sector vessels and Common Pool vessels must take. In FY 2010, sector vessels would operate under ACEs for allocated target species. Once an ACE is achieved for any allocated target stock, impacts to non-allocated target species and bycatch would cease because sector vessels must stop fishing in that stock area with any gear capable of catching groundfish unless they can obtain more ACE. The potential result of this exemption is for sector vessels to redistribute fishing effort over the year. However, the potential impact of this exemption is controlled predominantly by the ACEs for each allocated target stock. Based on the assumption of a relatively constant ratio of non-allocated target species and bycatch to allocated target stocks, ACEs would also function as a dominant control to limit impacts to non-allocated target species and bycatch. Overall, the effect of exempting all sector vessels from the 20-day block, regardless of any changes in fishing effort, would be a negligible impact on non-allocated target species and bycatch when compared to the No-Action Alternative.

No differences in impacts for non-allocated target species and bycatch are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NFSC-II, NEFS-III, NEFS-V through NEFS-XIII, FGS and PCS sectors for additional approval under the Proposed Action.

5.1.3.5 Gillnet Limit

This exemption was previously approved for the gillnet vessels in the SHS sector. This exemption proposes to increase the number of nets for Day gillnetters per permit, removing an effort control and mortality control on the number of nets per vessel. The proposed exemption could result in longer soak times because of the time required to retrieve and process more nets than would be allowed per non-exempt Sector vessel. Longer soaks could result in undocumented mortality of non-allocated target species and bycatch due to losses such as predation and net drop-out. Longer soaks could also result in groundfish mortality that is not documented in untended gillnets. However, fishermen must abide by the sector harvest rule of not soaking nets longer than 7 days. Additionally, untended gillnets

can lead to loss of nets, providing an incentive for fishermen to haul nets more frequently. There may also be increased discards due to predation damage which would be undocumented if the entire fish is consumed. Only those damaged fish that are brought aboard and subsequently discarded would be documented. To the extent that undocumented losses occur, there is a potential for an increased mortality rate on non-allocated target species and bycatch. As established, there is no reason to expect that increasing net use under this exemption would differentially impact non-allocated target species and bycatch.

Even though there is potential for certain mechanisms to create greater mortality in non-allocated species and bycatch, all catch of allocated target stocks would count against the sector's ACE, and sector nets would have to be removed once an ACE was reached in that stock area. Therefore, the impact on non-allocated target species and bycatch would be expected to be directly related to the conduct of operations for allocated target stocks. Increasing the number of nets for Day gillnetters per permit would mean vessels could fish more nets of larger mesh size to target monkfish, skates, and dogfish with minimal groundfish catch. However, non-allocated species such as monkfish, dogfish, and skates have management measures in place to limit the catch of these species and control mortality. The use of up to 150 nets total in each RMA is consistent with the monkfish FMP. Monkfish mortality is also limited by DAS and trip limits. To land skates, sector vessels would have to use a Category A DAS. Fishing effort on skates is further restricted by trip limits. Landing dogfish does not require the use of a DAS, but sector vessels would still be restricted by the 3,000 pounds-per-trip landings limit and quotas. Overall, compared to the No-Action Alternative, implementing this exemption for all sectors is likely to have a negligible impact on non-allocated target species and bycatch.

Under the No-Action Alternative impacts to non-allocated target species and bycatch would be negligible since fishing effort would not increase over the current baseline level. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, FGS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.3.6 Community Fixed Gear

This exemption was previously approved for the gillnet vessels in the NEFS-III and the NEFS-XI sectors. As with allocated target species, the use of community gear has the potential to decrease the number of gillnets fished at a time and increase or decrease the duration of fishing effort depending on how readily ACE is achieved across a particular sector. Theoretically, the use of community gear could increase or decrease the frequency of checking the nets since a group of individuals would be responsible for fishing the community gear instead of individuals.

Regardless of whether the number of nets or their placement changes with respect to the non-exempt sector vessels, all catch of allocated target stocks would count against the sector's ACE, and sector nets would have to be removed once an ACE was reached in that stock area. Therefore, the impact on non-allocated target species and bycatch would be expected to be directly related to the conduct of operations for allocated target stocks. Overall, compared to the No-Action Alternative, implementing this exemption for all sectors is likely to have a negligible impact on non-allocated target species and bycatch.

No differences in impacts for non-allocated target species and bycatch are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-V through NEFS-VIII, NEFS-X, NEFS-XII, FGS, SHS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.3.7 50 Net Limit on DAS

This exemption was previously approved for gillnet vessels in the FGS. This exemption would remove the restriction on the number of nets that could be hauled when fishing to a possible maximum of 150 nets, which is also the maximum number of nets now allowed in possession under the monkfish FMP. In comparison, non-exempt vessels would be restricted to hauling only 50 nets per trip when fishing in the Georges Bank RMA under the DAS system. The exemption would only apply when specifically targeting monkfish under the Monkfish FMP on Georges Bank. Additional net use while targeting monkfish could increase the catch of monkfish as well as the bycatch of skates and dogfish when compared with the same non-exempt vessels targeting monkfish and restricted to 50 hauls per day. However, the non-allocated species have management measures in place to limit the catch of these species and control mortality; therefore, impacts of this exemption would be limited and would only apply when sector vessels are specifically targeting monkfish under the Monkfish FMP. Monkfish landings are limited by DAS and trip limits. To land skates, sector vessels would have to use a Category A DAS. Fishing effort on skated would be further restricted by trip limits. Landing dogfish does not require the use of a DAS, but sector vessels would still be restricted by the 3,000 pounds-per-trip landings limit and quotas. Overall, relative to the No-Action Alternative, low negative impacts to monkfish, dogfish, and skates resulting from this exemption would likely occur when applied to all sectors.

Under the No-Action Alternative impacts to non-allocated target species and bycatch would be negligible since fishing effort would not increase over the current baseline level. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, SHS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.3.8 Limit on Number of Hooks

This exemption was previously approved for the vessels in the FGS sector. Exempting sector vessels from the hook limit measure could result in longer soak times or gear left unattended to hold fishing ground, potentially resulting in higher rates of mortality for non-allocated target species and bycatch. This impact would be limited, however, by the relatively small percentage (6%) of sector vessels which operate a mix of gear which includes longlines, hooks, traps, and pots. The effects to non-allocated target species and bycatch would also be limited by the ACE allocated to the sector since sector vessels must cease fishing in that stock area with any gear capable of catching groundfish once they attain ACE for any allocated species in that stock area. Therefore, relative to the No-Action Alternative, the implementation of this exemption for all sector vessels would likely result in a negligible impact to the allocated target stocks.

No differences in impacts to allocated target stocks are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, SHS, PCS, TSS and NECC sectors for additional approval under the Proposed Action.

5.1.3.9 DAS leasing size and HP restrictions

This exemption was previously approved for the vessels in the SHS and TSS sectors. The original purpose of the length and horsepower restrictions on DAS leasing was to maintain the character of the fleet. However, the relief sought by sector fisherman under exemption is related to retention of monkfish and skates harvested while vessels participate in the multispecies fishery. Among Common Pool participants, groundfish DAS allow a vessel to land and retain an increased quantity of monkfish or skates under some circumstances. While groundfish sector fishermen would be exempt from DAS

regulation for allocated target species, they would still need to expend groundfish DAS to land and retain an increased quantity of monkfish or skates under some circumstances. Implementation of this exemption for all sectors would allow for more efficient distribution of DAS, but it would not be expected to increase fishing effort as the total number of DAS allocated to the fishery would not increase. The exemption from DAS leasing restrictions would decrease the probability that sector participants would be forced to discard monkfish or skates because they lacked either groundfish or monkfish DAS. While the total number of DAS allocated to the fishery would not increase, this exemption provides more flexibility and increases the likelihood that all DAS will be utilized. There is also the potential under this exemption that DAS from smaller boats could be leased to larger, more efficient boats. However, boats would still be capped by FMP trip limits. There would not be an impact to the monkfish or skate FMPs because these plans have already accounted for the total available DAS. Overall, implementing this exemption for all sectors would be expected to have a negligible impact on non-allocated target species and bycatch.

Under the No-Action Alternative impacts to non-allocated target species and bycatch would be negligible since fishing effort would not increase over the current baseline level. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II through NEFS-XIII, and the PCS sectors for additional approval under the Proposed Action.

5.1.3.10 Summary of Direct/Indirect Impacts to Non-Allocated Target Species and Bycatch

There are six gillnet-specific exemptions discussed above. Gillnet vessels comprise approximately one-third of the sector fleet. Regardless of whether the number of nets or their placement changes with respect to the non-exempt sector vessels, all catch of allocated target stocks would count against the sector's ACE, and sector nets would have to be removed once an ACE was reached in that stock area. Therefore, the impact on non-allocated target species and bycatch would be expected to be directly related to the conduct of operations for allocated target stocks.

Under the GOM Sink Gillnet exemption and the Gillnet Limit exemption, there is potential for longer soaks which could result in undocumented mortality of non-allocated target species and bycatch due to losses such as predation and net drop-out. Longer soaks could also result in groundfish mortality that is not documented in untended gillnets. However, fishermen must abide by the sector harvest rule of not soaking nets longer than 7 days. Additionally, untended gillnets can lead to loss of nets, providing an incentive for fishermen to haul nets more frequently. There may also be increased discards due to predation damage which would be undocumented if the entire fish is consumed. Only those damaged fish that are brought aboard and subsequently discarded would be documented. To the extent that undocumented losses occur, there is a potential for an increased mortality rate on non-allocated target species and bycatch. While it may be that the smaller mesh net under the GOM Sink Gillnet exemption retains more or less skates, monkfish, or spiny dogfish, there is no experimental data to support either conclusion. Effort controls would continue to be in place under the skate, monkfish, and dogfish FMPs to limit mortality of these species. Overall, the potential for increased net use under either of these exemption would likely result in negligible impacts non-allocated target species and bycatch.

Additional net use while targeting monkfish under the 50-net limit on DAS exemption could increase the catch of monkfish as well as the bycatch of skates and dogfish when compared with the same non-exempt vessels targeting monkfish and restricted to 50 hauls per day. However, the impacts of this exemption would be limited to only when sector vessels are specifically targeting monkfish under the Monkfish FMP. Overall, compared to the No-Action Alternative, implementing the gillnet exemptions for all sectors would be likely to have a negligible impact on non-allocated target species and bycatch.

The other three exemptions are not specific to gillnet gear. Allowing sectors to discard at sea and operate without hook limits on longlines would likely result in negligible impacts to non-allocated target species and bycatch. Exempting sector vessels from restrictions on vessel size and horsepower for DAS leasing would result in negligible impacts on non-allocated target species and bycatch relative to the No-Action Alternative.

In summary, implementation of all of the exemptions discussed above (i.e., Alternative 3) would be expected to result in negligible impacts to non-allocated target species and bycatch compared to the No-Action Alternative.

It is expected that implementation of the GOM Sink Gillnet exemption and the discarding exemption (i.e. Alternative 2) would likely result in negligible impacts on non- allocated target species and bycatch relative to the No-Action Alternative.

The No-Action Alternative (i.e. Alternative 1) would result in negligible impacts to non-allocated target species and bycatch since fishing effort would not increase over the current baseline level.

5.1.4 Protected Resources

As discussed in Section 4.4 of the attached EAs, there are numerous protected species that inhabit the environment within the Northeast Multispecies FMP management unit, and that therefore potentially occur in the operations area of the sectors. These species are afforded protection under the Endangered Species Act of 1973 (ESA; i.e., for those designated as threatened or endangered) and/or the Marine Mammal Protection Act of 1972 (MMPA), and are under NMFS' jurisdiction. As listed in Table 4.4.1-1, 13 marine mammal, sea turtle, and fish species are classified as endangered or threatened under the ESA; the remaining species in Table 4.4.1-1 are protected by the MMPA and are known to interact with the Northeast multispecies fishery.

This section identifies impacts to protected resources associated with the exemptions in Alternative 3 compared to impacts associated with the No-Action Alternative (Alternative 1).

5.1.4.1 GOM Sink Gillnet

For the purposes of this supplemental EA it is assumed that a maximum of 150 gillnets could be fished by sector day gillnet vessels in the GOM RMA. This represents a potential increase from the current regulations which restrict vessels to 100 gillnets in the GOM RMA. The potential for an increased number of gillnets allowed in the water at one time could increase interactions with protected resources by allowing more opportunities for animals to be caught. Though, if additional nets resulted in a more efficient attainment of the ACE, it could decrease the overall number of soak hours throughout the year. However, it is not known whether more efficient attainment of the ACE would be achieved as part of this exemption. It is unlikely that the smaller mesh size of gillnets would alter the extent of protected species interactions. The restricted seasonality associated with the exemption would limit potential impacts to protected resources to a period from January 1 to April 30. Participants would also be required to adhere to pinger and gear requirements as outlined in the Harbor Porpoise Take Reduction Plan, and would have to comply with the weak link, sinking/neutrally buoyant ground line requirements of the Atlantic Large Whale Take Reduction Plan. Overall, compared to the No-Action Alternative, implementing this exemption (Alternative 2 or Alternative 3) for all sectors would be expected to have a low negative impact on protected resources due to the potential for increased gear days.

The No-Action Alternative would not adopt this exemption to use 6-inch mesh sink gillnets to target haddock in the Gulf of Maine. Because the No-Action Alternative would not increase fishing effort,

impacts to protected resources would be expected to be negligible. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, FGS, SHS, PCS and TSS sectors for approval under the Alternative 2 or Alternative 3. It is noted that since this supplemental EA analyzes the GOM Sink Gillnet exemption for the maximum number of gillnets that could be fished by sector Day gillnet vessels (up to 150 nets); the impacts associated with the implementation of this exemption are the same under Alternative 2 and Alternative 3.

5.1.4.2 Discarding

This exemption would allow sector vessels on a sector trip to discard fish at sea that are considered unmarketable. The exemption would only apply to sector vessels, all of which are subject to an ACE. Fish discarded under this exemption would still be applied to the vessel's sector's ACE through observer data or through sector-specific discard rates for unobserved trips. Fish discarded for reason of unmarketability would be recorded by at-sea monitors on observed trips and incorporated into the sector's specific discard rates by stock and gear strata for observed trips. Since sectors are capped by an ACE the ability to discard fish at sea would not result in an increase in fishing effort/gear days. Therefore, this exemption would result in negligible impact to protected resources with implementation of this exemption to all sector vessels (Alternative 2 and Alternative 3) relative to the No-Action Alternative.

No differences in impacts are expected between the Proposed Action and the No-Action Alternative s. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-VI, NEFS-VII, NEFS-XI through NEFS-XIII, FGS, SHS, PCS and TSS sectors for approval under Alternative 2 or Alternative 3.

5.1.4.3 120 Day Gillnet Block

This exemption was previously approved for the gillnet vessels in the NEFS-III, NEFS-XI, FGS, SHS, PCS, and TSS sectors. Under current regulations, gillnet vessels are required to refrain from fishing for a total of 120 days out of each fishing year. Each period of time taken must be a minimum of 7 consecutive days, and at least 21 days of this time must be taken between June and September of each fishing year, a time when sea turtles and whales are more prevalent in the Northeast multispecies area. The requirement to take time out during the summer months was intended as an allocated target species mortality control measure by vessels using gillnets. As sector members would be constrained by the ACE allocation, the 120-day block out is no longer warranted to limit mortality to allocated target species. If fishing throughout the period increases CPUE resulting in more efficient achievement of the ACE, this exemption would be expected to reduce the overall gear days, and thus reduce potential impacts to protected resources. However, if the sectors target one stock with increased selectivity to increase overall catch of the previously underutilized stock, the number of gear days may increase. Although there is a potential for gear days to increase or decrease, it is conservatively assumed for the purposes of this Supplemental EA that this exemption would result in a minor increase in gear days due to the ability to utilize an additional 120 days if ACE were not attained. In addition, this exemption would allow fishing effort to shift so that additional days were fished between June and September. Therefore, overall, implementing this exemption for all sectors would be expected to have a low negative impact on protected resources relative to the No-Action Alternative.

The No-Action Alternative would not adopt this exemption for additional sector gillnet vessels to fish during the 120-day block out period. Under the No-Action Alternative, impacts to protected species would be negligible since fishing effort would not increase over the current baseline level. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this

exemption has only been requested by the NEFS-II, NEFS-V through NEFS-VIII, NEFS-X, and NEFS-XII sectors for additional approval under the Proposed Action.

5.1.4.4 20-Day Spawning Block

This exemption was previously approved for all vessels in the SHS, TSS, and NECC sectors. The exemption for the 20-day spawning block was originally implemented as a mortality-control measure with associated benefits to provide protection for spawning aggregations. As proposed, this exemption would allow all approved sector vessels to be exempted from the 20-day spawning block out of the fishery between March 1 and May 31, which could allow effort to shift to the spring when fish prices and weather are more favorable and could result in increased catch efficiencies on target species. However, the lower quality and lower price of spawning fish creates disincentive for vessels to target them. The 20-day spawning block is required to be taken between March 1 and May 31, but has no other temporal or spatial restrictions. Therefore, an exemption from this restriction would not necessarily directly result in increased effort in the GOM on spawning stocks as vessels could fish on Georges Bank or Southern New England instead. Furthermore, exempt vessels would still be subject to the GOM Rolling Closure Areas, which are specifically designed to protect spawning aggregations.

If fishing throughout the spawning period increases CPUE resulting in more efficient achievement of the ACE, this exemption would be expected to reduce the overall gear days, and thus reduce potential impacts to protected resources. However, if the ACE is not reached, the potential to fish during an additional 20 days from March 1 through May 31could slightly increase the number of gear days for the entire fishing year. As this exemption would only allow sector members a maximum of 20 additional fishing days, the change in gear days would be negligible. However, as protected resources may be more prevalent in areas of high fish abundance, there may be a potential for increased interaction between protected resources and deployed gear. Therefore, implementing this exemption for all sectors would be expected to have a low negative impact on protected resources relative to the No-Action Alternative.

The No-Action Alternative would not adopt this exemption for additional sector gillnet vessels to fish during the 20-day spawning block out period. Under the No-Action Alternative impacts to protected species would be negligible since fishing effort would not increase over the current baseline level. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NFSC-II, NEFS-III, NEFS-V through NEFS-XIII, FGS and PCS sectors for additional approval under the Proposed Action.

5.1.4.5 Gillnet Limit

This exemption was previously approved for the gillnet vessels in the SHS sector. The existing gillnet limit was intended to reduce fishing effort, fish mortality, and the potential for untended gear left to hold fishing grounds; however, the exemption would allow up to 150 gillnets in the water per permit. The increase in the number of gillnets allowed in the water at one time could increase interactions with protected resources by allowing more time for animals to be caught. If additional nets would allow more efficient attainment of the ACE, it could decrease the overall number of soak hours throughout the year or during periods when protected resources may be more prevalent, resulting in a low positive impacts. However, it is not known whether the ACE would be achieved as part of this exemption. Participants would be required to adhere to pinger and gear requirements as outlined in the Harbor Porpoise Take Reduction Plan, and would have to comply with the weak link, sinking/neutrally buoyant ground line requirements of the Atlantic Large Whale Take Reduction Plan. Overall, compared to the No-Action Alternative, implementing this exemption for all sectors would be expected to have a low negative impact on protected resources due to the potential for increased gear days.

The No-Action Alternative would not adopt this exemption and would keep the existing gillnet limits for non-exempt sector day gillnet vessels at 100 gillnets (of which no more than 50 can be roundfish gillnets) in the GOM RMA; 50 gillnets in the GB RMA; and 75 gillnets in the Southern New England and Mid-Atlantic RMAs. Under the No-Action Alternative impacts to protected species would be negligible since fishing effort would not increase over the current baseline level. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, FGS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.4.6 Community Fixed Gear

This exemption was previously approved for the gillnet vessels in the NEFS-III and the NEFS-XI sectors. The regulatory modifications under this exemption would give gillnet fishermen the ability to share gear, providing increased economic efficiency and a reduction in overall gear deployment. Community fixed gear would allow one sector vessel to deploy fixed gear and to have a second vessel from the same sector tend the gear when the first returns to port. While allowing community fixed gear could result in ghost fishing and an associated increase in gear days it could also increase catch per gear day, which would tend to decrease overall gear days. As such, implementing this exemption for all sectors would likely have a negligible impact on protected resources relative to the No-Action Alternative.

No differences in impacts for protected resources are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-V through NEFS-VIII, NEFS-X, NEFS-XII, FGS, SHS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.4.7 50 Net Limit on DAS

This exemption was previously approved for the gillnet vessels in the FGS. This exemption would remove the restriction on the number of nets that could be hauled when fishing to a possible maximum of 150 nets, which is also the maximum number of nets now allowed in possession. In comparison, non-exempt vessels would be restricted to hauling only 50 nets per trip when fishing in the Georges Bank RMA under the DAS system. The exempt sectors would maintain existing gillnet limits, but seek an exemption from the multispecies regulation that prohibits hauling more than 50 nets per trip. While Day gillnet vessels are limited to 150 gillnets on the vessel or in the water (across the Georges Bank and Gulf of Maine Regulated Mesh Areas), they can only haul 50 nets while in Georges Bank. The sectors seek an exemption from the restriction that vessels in Georges Bank only haul 50 gillnets while operating on a groundfish DAS for trips where the vessel is also on a monkfish DAS. Therefore, the exemption would only apply when specifically targeting monkfish under the Monkfish FMP on Georges Bank. The effect of the exemption would be that sector vessels fishing both a groundfish DAS and a monkfish DAS would not be limited to hauling only 50 nets within Georges Bank. Because exempt sector participants would still be bound by existing net limits, implementing this exemption for all sectors would have negligible impacts on protected resources relative to the No-Action Alternative.

No differences in impacts to protected resources are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, SHS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.4.8 Limit on Number of Hooks

This exemption was previously approved for vessels in the FGS. The existing hook limit restriction serves to reduce fishing effort, fishing mortality, and the potential that gear could be used to "hold" fishing ground. For these reasons, it is likely that this exemption could increase gear days; however, hook gear is classified as Tier 2, Category III, indicating that gear interactions with protected resources rarely results in incidental mortality or injury. Although longer soak times or unattended gear could increase protected species interactions, implementing this exemption for all sectors would be expected to result in negligible impacts to protected resources relative to the No-Action Alternative.

No differences in impacts to protected resources are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, SHS, PCS, TSS and NECC sectors for additional approval under the Proposed Action.

5.1.4.9 DAS leasing size and HP restrictions

This exemption was previously approved for the vessels in the SHS and TSS sectors. The original purpose of the length and horsepower restrictions on DAS leasing was to maintain the character of the fleet. However, the relief sought by sector fisherman under exemption is related to retention of monkfish and skates harvested while vessels participate in the multispecies fishery. Among Common Pool participants, groundfish DAS allow a vessel to land and retain an increased quantity of monkfish or skates under some circumstances. While groundfish sector fishermen would be exempt from DAS regulation for allocated target species, they would still need to expend groundfish DAS to land and retain an increased quantity of monkfish or skates under some circumstances. Implementation of this exemption for all sectors would allow for more efficient distribution of DAS, but it would not be expected to increase fishing effort as the total number of DAS allocated to the fishery would not increase. While the total number of DAS allocated to the fishery would not increase, this exemption provides more flexibility and increases the likelihood that all DAS will be utilized. There is also the potential under this exemption that DAS from smaller boats could be leased to larger, more efficient boats. However, boats would still be capped by FMP trip limits. There would not be an impact to the monkfish or skate FMPs because these plans have already accounted for the total available DAS. Thus, as an increase in fishing effort would not be anticipated, any impact to protected resources from the implementation this exemption would be expected to be negligible relative to the No-Action Alternative.

No differences in impacts to protected resources are expected between the Proposed Action and the No-Action Alternatives. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II through NEFS-XIII, and the PCS sectors for additional approval under the Proposed Action.

5.1.4.10 Summary of Direct/Indirect Impacts to Protected Resources

There are six gillnet-specific exemptions discussed above. Gillnet vessels comprise approximately one-third of the sector fleet. The GOM Sink Gillnet, the 120-Day gillnet block, the 20-Day Spawning Block, and the Gillnet Limit exemptions have the potential to increase gear days, and therefore have the potential to increase interaction with protected resources depending on how sectors chose to fish for their ACE. The Community Fixed Gear exemption would decrease the amount of overall gear deployed but it is unclear if gear days would increase or decrease. Additionally, an overall reduction in the 2010 groundfish mortality under Amendment 16 is likely to result in reduced fishing effort fleet

wide compared to previous years. Therefore, the community fixed gear exemption would likely result in negligible impacts on protected resources relative to the No-Action Alternative. Under the 50-Net Limit on DAS exemption, vessels would still be bound by existing net limits and therefore impacts to protected resources would be expected to be negligible compared to the No-Action Alternative.

The other three exemptions are not specific to gillnet gear. Allowing sectors to discard at sea, operate without hook limits on longlines, and to remove restrictions on vessel size and horsepower for DAS leasing would result in negligible impacts to protected resources.

In summary, implementation of all of the exemptions discussed above (i.e., Alternative 3) would result in low negative impacts to protected resources when compared to the No-Action Alternative.

It is expected that implementation of the GOM Sink Gillnet exemption and the discarding exemption (i.e. Alternative 2) would result in low negative impacts on protected resources compared to the No-Action Alternative.

The No-Action Alternative (i.e. Alternative 1) would result in negligible impacts to protected resources since fishing effort would not increase over the current baseline level.

5.1.5 Human Communities/Social/Economic Environment

This supplemental EA considers the approval of additional exemptions for sectors and evaluates the effect this may have on people's way of life, traditions, and community. These "social impacts" may be driven by changes in fishery flexibility, opportunity, stability, certainty, safety, and/or other factors. Impacts would be most likely experienced across communities, gear cohorts, and/or vessel size classes. Section 4.5 in each of the attached EAs includes a description of the sector participants as well as their homeports.

This section identifies impacts to human communities associated with the exemptions in Alternative 3 compared to impacts associated with the No-Action Alternative (Alternative 1).

5.1.5.1 GOM Sink Gillnet

The Magnuson-Stevens Act requires that any recovery benefits be allocated fairly and equitably among commercial, recreational, and charter fishing sectors in the fishery. Measures in Amendment 16 facilitated the targeting or retention of haddock by commercial trawl and longline vessels. This exemption is designed to facilitate targeting of GOM haddock by sink gillnet vessels. Amendment 13 adopted a 6.5-inch minimum size for both gears in the GOM, continuing a measure that was first adopted through a court order in May of 2002.

Sink gillnet vessels accounted for 15 percent of commercial landings for GOM haddock from CY 1997 – CY 2002, but only 11 percent from CY 2003 through CY 2007. This change in percentage is partly attributed to the court ordered increase in mesh size that was adopted in 2002, and then incorporated into Amendment 13 (implemented May 1, 2004). The current mesh size is ineffective for targeting haddock (see Amendment 16, Figure 132). By reducing the mesh size, sink gillnet fishermen would have an improved ability to target this stock and share in recovery benefits. This opportunity would not exist under the No Action option and sink gillnet vessels would not be provided an opportunity to benefit from the recovery of haddock. Under No Action, sink gillnet vessels would not have increased access to GOM haddock and haddock revenues would be expected to be lower.

This exemption would necessitate the purchase of 6-inch mesh gillnets, but may increase revenues for gillnet fishermen. Since the exemption would not be applicable until January 2011, the purchase of 6-inch mesh gillnets would not represent an immediate or all at once cost to gillnet fisherman.

Additionally, as the exemption would be voluntary, it would be anticipated that only those fisherman that expect the exemption to be of economic benefit would likely invest in the new gear.

The GOM sink gillnet exemption would allow a greater catch of haddock to be retained and thus increase efficiency and revenue in the fishery. Other low positive impacts would include improved attitudes towards fisheries management because an industry-based recommendation that was originally disapproved by NMFS is being proposed by NMFS for use by sectors. This could increase the perceived legitimacy of management because NMFS responded to industry comment to propose this as an exemption if disapproved under Amendment 16, and may help reverse cultural models held by industry that the Federal government is unresponsive and oppressive to industry. Also, improved attitudes toward management may be realized as more fish are able to be caught, resulting in a greater chance of fully harvesting available haddock resources that should help address a source of industry frustration during the development of Amendment 16. Because the exemption represents the realization of industry collaboration with scientists to provide the data necessary to increase the efficiency of fishing operations, the proposed action could lead to an increased desire to participate in cooperative research and the continued fostering of innovation and cooperation in the industry.

Under the No-Action Alternative, sector sink gillnet vessels would not be provided an opportunity to benefit from the recovery of haddock, and haddock revenues would be expected to be lower. Not implementing the GOM haddock sink gillnet exemption would limit opportunities for gillnet gear to target GOM haddock. Relative to the No-Action Alternative, allowing all sector gillnet vessels to participate in this exemption would result in additional low positive economic and social impacts to both sector participants and ports. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, FGS, SHS, PCS and TSS sectors for approval under the Alternative 2 or Alternative 3. It is noted that since this supplemental EA analyzes the GOM Sink Gillnet exemption for the maximum number of gillnets that could be fished by sector Day gillnet vessels (up to 150 nets); the impacts associated with the implementation of this exemption are the same under Alternative 2 and Alternative 3.

5.1.5.2 Discarding

Current regulations at 648.87 (b)(1)(v)(A) prohibit sector vessels from discarding any legal-sized fish of allocated stocks. Operational and safety concerns exist as a result of these regulations. Sector vessels have to take up valuable space on deck to store catch that may be damaged or contaminated in order to keep unmarketable catch separated from the food grade product. These additional storage totes could also compromise fisherman safety on the deck or potentially destabilize the boat.

Data for FY 2010 (through November 3, 2010) indicate that 7.3% of observed trips reported allocated target species catch which was kept because regulations prohibited discard at sea (disposition code 172). The amount of unmarketable fish that a vessel brings in on a single trip varies by gear type. Gillnet trips accounted for the majority of the kept legal-sized unmarketable fish. Of the 151 observed gillnet trips with kept legal-sized unmarketable fish, gillnet vessels averaged approximately 96 pounds of legal-sized unmarketable fish. Observed gillnet trips ranged from zero to approximately 400 pounds of kept legal-sized unmarketable fish. The 7 observed longline trips with kept legal-sized unmarketable fish averaged approximately 65 pounds per trip and the 3 observed trawl trips with kept legal-sized unmarketable fish averaged approximately 23 pounds per trip. Observed longline trips ranged from zero pounds to approximately 150 pounds of kept legal-sized unmarketable fish while observed trawl trips ranged from zero to approximately 14 pounds of kept legal-sized unmarketable fish.

Once in port, the cost to get rid of the unmarketable fish has typically been absorbed by the dealer and varies in terms of the amount and condition of the fish. Dealers have been able to sell some of the

damaged fish as bait. In the case of unsellable discards, the burden to the dealer is in labor and record keeping, approximated at 15 minutes per offload. Dealers typically take the unmarketable fish as a courtesy to the fisherman. However, if high discard trips became a recurring event, the dealer may be inclined to pass off some of the costs to the fisherman.

This exemption is not expected to influence the number of fish which are landed as there is an incentive to bring the fish to market because all fish count towards the ACE. In summary, implementation of this exemption for all sectors would be expected to increase the expected profit margins and safety of fishermen, thereby resulting in a low positive impact on sector participants and ports.

Under the No-Action Alternative, additional sector vessels would not be provided an opportunity to benefit from the increase in the operational flexibility and revenues would be expected to be lower. Therefore, the No-Action Alternative would result in low negative economic and social impacts to both ports and non-exempt sector participants compared to the Proposed Action. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-VI, NEFS-VII, NEFS-XI through NEFS-XIII, FGS, SHS, PCS and TSS sectors for approval under Alternative 2 or Alternative 3.

5.1.5.3 120 Day Gillnet Block

This exemption was previously approved for gillnet vessels in the NEFS-III, NEFS-XI, FGS, SHS, PCS, and TSS sectors. The 120-day block rule was imposed as a means of controlling mortality by reducing gillnetting effort. Because sector members would operate under an ACE, an exemption would increase the operational flexibility of sector vessels while maintaining the mortality control rationale for the measure. Implementation of this exemption for all sectors would be expected to increase the expected profit margins of sector fishermen, thereby resulting in low positive impacts to on sector participants and ports.

Under the No-Action Alternative, additional sector sink gillnet vessels would not be provided an opportunity to benefit from the increase in the operational flexibility and revenues would be expected to be lower. Therefore, the No-Action Alternative would result in low negative economic and social impacts to both sector participants and ports compared to the Proposed Action. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-V through NEFS-VIII, NEFS-X, and NEFS-XII sectors for additional approval under the Proposed Action.

5.1.5.4 20-Day Spawning Block

This exemption was previously approved for all vessels in the SHS, TSS, and NECC sectors. The 20-day block out rule was imposed as a mortality-control measure with associated benefits to provide protection for spawning aggregations. Because sector members would operate under an ACE, an exemption would increase the operational flexibility of sector vessels while maintaining the mortality control rationale for the measure. Implementation of this exemption for all sectors would increase the expected profit margins of sector fishermen and would represent a low positive impact on ports and sector participants.

Under the No-Action Alternative, additional sector gillnet vessels would not be provided an opportunity to benefit from the increase in the operational flexibility and revenues would be expected to be lower. Therefore, the No-Action Alternative would result in low negative economic and social impacts to both ports and non-exempt sector participants compared to the Proposed Action. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this

exemption has only been requested by the NFSC-II, NEFS-III, NEFS-V through NEFS-XIII, FGS and PCS sectors for additional approval under the Proposed Action.

5.1.5.5 Gillnet Limit

This exemption was previously approved for the gillnet vessels in the SHS sector. The existing gillnet number restriction was implemented to reduce fishing effort and fishing mortality. It also had the effect of reducing the potential that gear would be left untended to "hold" fishing ground. The agreement of the sector vessels to fish under an ACE provides conservation benefits comparable to the overall effort reduction and mortality control rationale for these measures. However, exempting sector vessels from the gillnet measures could result in longer soak times or gear left untended to hold fishing ground. This could increase inter-vessel conflicts. Relative to the No-Action Alternative, implementation of this exemption would represent a low positive impact to approved sector gillnetters but a low negative impact to ports without measures to ensure the exemption would not increase ghost fishing and inter-vessel conflicts.

Under the No-Action Alternative, additional sector gillnet vessels would not be provided an opportunity to benefit from the increase in the operational flexibility and revenues would be expected to be lower. Therefore, the No-Action Alternative would result in low negative economic and social impacts to non-exempt sector participants compared to the Proposed Action. The No-Action Alternative would be expected to have a negligible impact on ports as the status quo would be retained. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, FGS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.5.6 Community Fixed Gear

This exemption was previously approved for gillnet vessels in the NEFS-III and the NEFS-XI sectors. Community fixed gear would allow one sector vessel to deploy fixed gear and to have a second vessel from the same sector tend the gear when the first returns to port. Because all sector participants have agreed to fish under an ACE, the community gear exemption would not adversely affect the allocated target stocks. However, the use of community fixed gear could result in gear breaking if left in place longer, which could increase inter-vessel conflicts. Relative to the No-Action Alternative, implementation of the exemption for all sectors would represent a low positive impact to sector participants, but a low negative impact to ports without measures to ensure the exemption would not increase ghost fishing and inter-vessel conflicts.

Under the No-Action Alternative, additional sector gillnet vessels would not be provided an opportunity to benefit from the increase in the operational flexibility and revenues would be expected to be lower. Therefore, the No-Action Alternative would result in low negative economic and social impacts to non-exempt sector participants compared to the Proposed Action. The No-Action Alternative would be expected to have a negligible impact on ports as the status quo would be retained. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-V through NEFS-VIII, NEFS-X, NEFS-XII, FGS, SHS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.5.7 50 Net Limit on DAS

This exemption was previously approved for the gillnet vessels in the FGS. The existing net hauling restriction serves to distribute a fixed amount of fishing related mortality among more fishermen than it would otherwise support. Because sector members operate under an ACE, an exemption would

increase their operational flexibility when fishing under DAS while maintaining the mortality control rationale for the measure. Implementing this exemption for all sectors would increase flexibility and profit margins resulting in a low positive impact on sector participants and ports.

Under the No-Action Alternative, additional sector gillnet vessels would not be provided an opportunity to benefit from the increase in the operational flexibility and revenues would be expected to be lower. Therefore, the No-Action Alternative would result in low negative economic and social impacts to both ports and non-exempt sector participants compared to the Proposed Action. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, SHS, PCS and TSS sectors for additional approval under the Proposed Action.

5.1.5.8 Limit on Number of Hooks

This exemption was previously approved for vessels in the FGS. The existing hook limit restriction serves to reduce fishing effort, fishing mortality, and the potential that gear could be used to "hold" fishing ground. The agreement of sectors to fish under an ACE provides conservation benefits equivalent to the overall effort reduction and mortality control rationale for the hook limit measure. However, exempting sector vessels from the hook limit measure could potentially result in longer soak times or gear left unattended to hold fishing ground. This could result in groundfish mortality that is neither reported nor applied to a sector's ACE and/or increase inter-vessel conflicts. Without additional measures to ensure the exemption would not result in longer soak times or gear being left unattended for extended periods of time, implementation of this exemption would represent a low positive impact to exempt sector members but a low negative impact to ports when compared to the No-Action Alternative.

Under the No-Action Alternative, additional sector vessels would not be provided an opportunity to benefit from the increase in the operational flexibility and revenues would be expected to be lower. Therefore, the No-Action Alternative would result in low negative economic and social impacts to both ports and non-exempt sector participants compared to the Proposed Action. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, SHS, PCS, TSS and NECC sectors for additional approval under the Proposed Action.

5.1.5.9 DAS leasing size and HP restrictions

This exemption was previously approved for the vessels in the SHS and TSS sectors. The original purpose of the length and horsepower restrictions on DAS leasing was to maintain the character of the fleet. However, the relief sought by sector fisherman under exemption is related to retention of monkfish and skates harvested while vessels participate in the multispecies fishery. Among Common Pool participants, groundfish DAS allow a vessel to land and retain an increased quantity of monkfish or skates under some circumstances. While groundfish sector fishermen would be exempt from DAS regulation for allocated target species, they would still need to expend groundfish DAS to land and retain an increased quantity of monkfish or skates under some circumstances.

While the total number of DAS allocated to the fishery would not increase, this exemption provides more flexibility to fishermen and increases the amount of DAS that is available for leasing. Therefore, this exemption could facilitate redirection of effort on skates and monkfish, decreasing the probability that sector participants would be forced to discard monkfish or skates because they lacked either groundfish or monkfish DAS. This would, in turn, increase the expected profit margins of sector fishermen. The exemption would allow the efficient distribution of available DAS thereby maximizing revenue for those that want to use the DAS. For example, greater revenue would be

expected for those vessels targeting monkfish and skates. . For those leasing the DAS, this exemption would expand the market of vessels that DAS could be lease to, thereby increasing revenues.

Implementation of this exemption for all sectors would result in low positive impacts on sector participants due to increase revenues. While the character of the fleet could change somewhat if sectors are exempted from DAS leasing restrictions, this potentially negative factor is more than offset by the potential for increased vessel profitability and the positive affect that revenue would have on ports. However, the character of the fleet is not as dependent on the DAS baseline restrictions, as under the sector system DAS are no longer required to land groundfish. Overall, implementation of the exemption for all sectors would represent a low positive impact on ports.

Under the No-Action Alternative, additional sector vessels would not be provided an opportunity to benefit from the increase in the operational flexibility and revenues would be expected to be lower. Therefore, the No-Action Alternative would result in low negative economic and social impacts to both ports and non-exempt sector participants compared to the Proposed Action. While the impacts associated with the implementation of this exemption have been analyzed for all sectors, this exemption has only been requested by the NEFS-II through NEFS-XIII, and the PCS sectors for additional approval under the Proposed Action.

5.1.5.10 Summary of Direct/Indirect Impacts to Human Communities

There are six gillnet-specific exemptions discussed above. Gillnet vessels comprise approximately one-third of the sector fleet. Since sector members would operate under an ACE, these gillnet exemptions would increase the operational flexibility of sector vessels while maintaining mortality controls. Therefore, implementation of these gillnet exemptions would have a low positive impact on sector participants relative to the No-Action Alternative. The GOM Sink Gillnet, the 120-Day Gillnet Block, the 20-Day Spawning Block, and the 50-Net Limit with DAS exemptions would have low positive impacts on ports due to increased flexibility and profit margins when compared to the No-Action Alternative. However, without additional measures to ensure that the Gillnet Limit and Community Fixed Gear exemptions would not increase ghost fishing and inter-vessel conflicts, these exemptions would be expected to have a low negative impact on ports relative to the No-Action Alternative.

The other three exemptions are not specific to gillnet gear. The discarding exemption would provide additional flexible fishing opportunities and increase fisherman safety, thereby resulting in low positive impacts to fisherman and ports. Allowing other sectors to operate without hook limits on longlines would be expected to have a low positive impact to exempt sector members. However, without additional measures to ensure the exemption would not result in longer soak times or gear being left unattended for extended periods of time, the Limit on Number of Hooks exemption would be expected to have a low negative impact to ports when compared to the No-Action Alternative The increased operational flexibility associated with the 50-Net Limit with DAS exemption would result in low positive impacts to both sector participants and ports relative to the No-Action Alternative.

In summary, implementation of all of the exemptions discussed above (i.e., Alternative 3) would result in low positive impacts to sector participants and mixed impacts to ports compared to the No-Action Alternative.

It is expected that implementation of the GOM Sink Gillnet exemption and the discarding exemption (i.e. Alternative 2) would result in low positive impacts to both sector participants and ports relative to the No-Action Alternative.

Under the No-Action Alternative (i.e. Alternative 1), additional sector vessels would not be provided an opportunity to benefit from the increase in the operational flexibility and revenues would be

expected to be lower. Therefore, the No-Action Alternative would result in low negative economic and social impacts to both ports and non-exempt sector participants compared to the Proposed Action.

5.2 CUMULATIVE EFFECTS ANALYSIS

The need for a cumulative effects analysis (CEA) is referenced in the CEQ regulations implementing NEPA (40 CFR Part 1508.25). CEQ regulations define cumulative impacts as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other action." The purpose of this CEA is to consider the effects of the Proposed Action and the combined effects of many other actions on the human environment over time that would be missed if each action were evaluated separately. CEQ guidelines recognize that it is not practical to analyze the cumulative effects of an action from every conceivable perspective, but, rather, the intent is to focus on those effects that are truly meaningful. The CEA baseline in this case consists of the combined effects of Amendment 16, Framework 44, all 2010 Sector EAs, and the past, present, and reasonably foreseeable future fishing and non-fishing actions which are described below.

This CEA assesses the combined impact of the direct and indirect effects of the proposed additional exemptions analyzed for all 17 sectors with the impact from the past, present, and reasonably foreseeable future fishing actions, as well as factors external to the multispecies fishery that affect the physical, biological, and socioeconomic resource components of the groundfish environment. This analysis is focused on the VECs (see below) and because this action is being taken just months after the 2010 Sectors were approved, it relies heavily on the analysis contained in the attached Sector EAs.

Valued Ecosystem Components (VECs): The CEA focuses on VECs specifically including:

- Physical environment/habitat (including EFH);
- Regulated stocks (allocated target groundfish stocks);
- Non-allocated target species and bycatch;
- Protected resources/endangered species; and
- Human communities (ports of sector operation and sector members).

Temporal and Geographic Scope of the Analysis: The temporal range that will be considered for habitat, allocated target species, non-allocated target species and bycatch, and human communities, extends from 2004, the year that Amendment 13 was implemented, through May 1, 2011, the beginning of the next fishing year. While the effects of actions prior to Amendment 13 are considered (see Amendment 16 for a full cumulative effects analysis), the cumulative effects analysis for this action is focused primarily on Amendment 13 and subsequent actions because Amendment 13 implemented the sector process and included major changes to management of the groundfish fishery, including substantial effort reductions. Much emphasis is also placed on the implementation of measures from Amendment 16, since this action approved 19 additional sectors, revised sector management regulations, and added stricter management measures that apply to the Common Pool.

The temporal range considered for endangered and other protected species begins in the 1990's when NMFS began generating stock assessments for marine mammals and developed recovery plans for sea turtles that inhibit waters of the U.S. EEZ. In terms of future actions, the analysis examines the period of approval for this action through May 1, 2011, which is the beginning of the subsequent fishing year. All sectors were approved for one year and the cumulative effects will need to be reassessed as part of the NEPA action taken for the 2011 fishing year.

The geographic scope considered for cumulative effects to habitat, allocated target species, and non-allocated target species and bycatch consists of the range of species, primary ports, and geographic areas (habitat) discussed in Section 4.0 (Affected Environment) of the attached EAs. The range of each endangered and protected species as presented in Section 4.4 will be the geographic scope for that VEC. The geographic scope for the human communities will consist of those primary port communities from which Sector vessels originate.

Summary of Direct/Indirect Impacts of the Proposed Action

The direct and indirect effects on the VECs from the FY 2010 supplemental EA (Alternative 3-Proposed Action) compared to what the impacts would be if no additional exemptions were granted (No-Action) are summarized in Table 5.

Impacts to the physical and biological environment from the proposed exemptions were assessed and found to be negligible with the exception of low negative impacts to non-target/bycatch species for the exemption from the 50-net limit while on a DAS and low negative impacts to protected resources for the 120 day gillnet block, 20-day spawning block, and gillnet limit. For impacts to the non-target/bycatch species, negative impacts are possible because vessels fishing under this exemption would be permitted to fish up to 150 nets versus only 50 nets under current regulations. While ACE would control the catch of targeted groundfish species, mortality to non-target and bycatch species such as monkfish, skates and dogfish may increase. For protected species, an exemption from the 120-day gillnet block could allow vessels a greater number of days on the water potentially during the summer months when more protected species are present. A similar concern exists for an exemption from the 20-day spawning block. Although the change in gear days would be negligible, vessels would be permitted to fish in areas of increased abundance of fish where protected species may be present in larger numbers. The exemption to allow up to 150 gillnets in the water per permit would also increase the likelihood of gear interactions with protected species.

Other notable impacts would occur in ports and to sector participants. Exemptions from the GOM sink gillnet, discarding, 120-day gillnet block, 20-day spawning block, 50 net limit, and DAS leasing size and horsepower restrictions would have low positive impacts to both of these VECs due to expected increases in operational flexibility and profit margins. Alternately, ports would expect to incur low negative impacts from exemptions to the gillnet limit, community fixed gear, and limit on the number of hooks. This is due to the potential for increased gear conflicts and ghost fishing. However, these same exemptions would represent low positive impacts to sector participants due to increased revenues and flexibility.

Past, Present and Reasonably Foreseeable Future Actions

Detailed information on the past, present, and reasonably foreseeable future actions that may impact this action can be found in the EIS for Amendment 16 to the NE multispecies FMP in addition to each of the sectors individual EAs (attached). The information on relevant past, present and reasonably foreseeable future actions and their impacts are summarized in this section.

Aggregate Sector Impacts

The sector-specific harvest rules, universal exemptions granted by Amendment 16, and additional requested sector-specific exemptions that were granted in 2010 were discussed and presented in Section 5.1 of the attached 2010 sector EAs. In aggregate, the exemptions granted were determined to likely have negligible impacts on habitat/EFH, allocated target species, and non-allocated target species and bycatch. By design, all exemptions granted were assumed to result in low positive effects to sector members and usually ports. Several of the Amendment 16 universal exemptions may result in an increased potential for gear interactions with protected resources, possibly resulting in low negative impacts as discussed in Section 5.1.4 of each sector's EA. In addition, several sectors with gillnet vessels requested exemptions from gillnet-related restrictions. This was understood to result in an increased number of nets or time the nets would be in the water, which would likely result in low negative impacts to protected resources.

Other Sector Operation Items

The high proportion of ACL linked to sectors, as compared to the Common Pool, would result in negligible impacts to physical environment/EFH, allocated target stocks, non-allocated target species and bycatch, and protected resources. There may be low positive impact to sectors' ports with the ability for sector participants to fish their ACE without effort control restrictions. The ability to transfer ACE within an allotment period results in a net increase of zero, having no impact on achieving target mortality rates, and would have a low positive impact on human communities and negligible impacts on the physical and biological environment. Because sectors claim that there would be no further consolidation of permits as a result of sector operations, it is anticipated that there would be negligible impacts to all VECs associated with consolidation of permits. Consequently, there is not anticipated to be redistribution of effort as a result of sector expansion. Improved monitoring as a result of sectors is anticipated to result in low positive cumulative impact to allocated target stocks, non-allocated target species and bycatch, and protected resources since additional monitoring would provide information for more effective management of the fishery and a better understanding of interactions between fisheries and protected species. There would be a negligible effect on habitat, and a low negative impact on human communities due to the increased monitoring and enforcement costs.

Summary of Impacts from Sector Operations

Overall, the cumulative impacts associated with all sector operations are as follows: negligible impacts to physical environment/habitat and EFH, allocated target species, and non-allocated target species and bycatch; likely low negative impacts to protected resources; and low positive impacts/mixed to human communities.

Other Fishing Effects: Past, Present and Reasonably Foreseeable Future Groundfish and Related Management Actions

The following is a summary of the past, present, and reasonably foreseeable future fishing actions and effects thought most likely to impact this cumulative effects assessment. For additional information on the cumulative effects and to view the complete summary of the history of the NE Multispecies FMP, please see Amendment 16 to the NE Multispecies FMP.

Physical Environment/Habitat/EFH

Past and Present Actions: Amendments 13 and 16 and FWs 42 and 44 to the NE Multispecies FMP are regulations that have reduced fishing effort. Reduction in fishing effort results in less gear interaction with bottom habitat, effectively resulting in low positive effects to the physical environment. FW 40B was implemented in 2005 and allowed previously non-hook vessels to join the Georges Bank Cod Hook Sector, which resulted in more cod caught with hook gear. This action had a negligible to low positive effect on habitat because hook gear has minimal impacts to bottom habitat.

The ALWTRP requires the use of sinking groundlines, which may have a negligible to low negative impact on habitat due to associated bottom sweep by the groundline. In addition, required use of weak links in gillnets may result in floating "ghost gear," which could snag on and damage bottom habitat.

While spiny dogfish are one of the primary bycatch species in the Northeast multispecies fishery, the spiny dogfish FMP has likely had a negligible effect on habitat since most of the landed catch has historically been landed with bottom gillnets rather than bottom trawls. Gillnets have a low impact on vulnerable benthic habitat.

Amendment 3 to the skate FMP went into effect in July 2010 and is expected to reduce discards and landings sufficiently to rebuild stocks of winter, thorny, and smooth skates, and to prevent other skates from becoming overfished. The reduction in fishing effort should result in fewer habitat and gear interactions, a likely positive impact to the physical environment.

Future Actions: Reasonably foreseeable future actions that will likely affect habitat include the EFH Omnibus Amendment (under development at this time). The EFH Omnibus Amendment will provide for a review and update of EFH designations, identify HAPCs, as well as provide an update on the status of current knowledge of gear impacts. It will also include new proposals for management measures for minimizing the adverse impact of fishing on EFH that will affect all species managed by the NEFMC. The net effect of new EFH and HAPC designations and more targeted habitat management measures should be positive for EFH.

The Strategy for Sea Turtle Conservation and Recovery in Relation to Atlantic Ocean and Gulf of Mexico ("Strategy") is a gear-based approach to addressing sea turtle bycatch. NMFS is considering increasing the size of the escape opening for Turtle Excluder Devices (TEDs) in the summer flounder fishery, expanding the use of TEDs to other trawl fisheries, and modifying the geographic scope of the TED requirements(74 FR 88 May 8, 2009). Since TED requirements may decrease the catch retention of some target species, vessels may tow longer to offset this loss of catch, likely resulting in negative impacts to habitat and EFH.

Summary of Impacts: Management measures in Amendment 13, FW 42, Amendment 16, Amendment 3 to the Skate FMP, and FW 44 have positive effects on habitat due to reduced fishing efforts, consequently reducing gear interaction with habitat. FW 40A and 40B resulted in negligible to low positive effects on habitat due to decreasing impacts to the bottom as more cod is caught with low impact fixed gear. The ALWTRP resulted in low negative to negligible effects on habitat due to the possibility of groundline sweep on the bottom and "ghost gear." The FMPs that reduce fishing effort generally result in fewer habitat and gear interactions, resulting in low positive effects on habitat. The proposed TED requirements would likely have negative effects on habitat due to potentially increased towing time. Overall, the cumulative effect of past, present, and reasonably foreseeable future fishing actions have resulted in positive effects on habitat.

Allocated Target Species

Past and Present Actions: While groundfish have been managed in the EEZ in since 1977, the following discussion is limited to past actions beginning with the implementation of Amendment 13. However, it should be noted that in general, management actions taken prior to Amendment 13 reduced effort on managed groundfish stocks, decreased impacts to habitat, reduced gear interactions with protected species, and had a negative impact on human communities. However, because actions prior to Amendment 13 did not rebuild overfished stocks to sustainable levels, greater effort reductions were necessary.

Management actions that affect allocated target species have been reviewed with some detail in the FSEIS of Amendment 13, the EAs for FWs 42 and 44, and the Amendment 16 final EIS. Amendment 13, FWs 42 and 44, and Amendment 16 have implemented restrictions on fishing effort in order to rebuild groundfish stocks. In contrast, FW 40A and 40B allowed for minor increases in fishing effort on cod and haddock, which is considered a low negative impact to these species. The results of the GARM III indicate that Amendment 13 and FW 42 have had positive effects on certain groundfish stocks (haddock, Acadian redfish and American plaice).

With recent increases in quotas and trip limits, it is likely that there will be an increase in the amount of spiny dogfish caught and landed by vessels fishing for groundfish, which may result in a low positive effect on allocated target groundfish species.

Monkfish, commonly caught along with groundfish, are currently regulated by the Monkfish FMP, which was implemented in 1999. Monkfish management actions have reduced fishing effort over the last decade, which has resulted in positive impacts for groundfish. Amendment 5 to the Monkfish FMP will either maintain the current level of fishing effort or allow for additional fishing above the current level, since both stocks of monkfish (North and South) are rebuilt.

Skates are currently managed under an FMP, and Amendment 3 to the FMP went into effect in July 2010. The management measures in Amendment 3 reduce fishing effort to rebuild biomass. Therefore, the impacts should be positive for the allocated multispecies stocks, which are simultaneously targeted with skates.

Future Actions: The provisions in the EFH Omnibus Amendment could result in greater habitat protection for areas that are highly vulnerable to the adverse effects of fishing, resulting in a likely positive effect on groundfish.

As part of the sea turtle Strategy (74 FR 88 May 8, 2009), NMFS is considering increasing the size of the escape opening for TEDs in the summer flounder fishery, expanding the use of TEDs to other trawl fisheries, and modifying the geographic scope of the TED requirements. TED requirements would likely have a negligible effect on the target species.

Summary of Impacts: Amendment 13, FW 42, Amendment 16, and FW 44 have had (or are expected to have) positive effects on allocated target species. Other FMPs that affect other species landed by groundfish sectors have also resulted in positive effects on allocated target species. Future measures that will likely restrict fishing effort (EFH Omnibus) will also have positive effects on allocated target species. Future measures such as the TED requirements would likely result in negative effects to allocated target species because lower catch retention would result in an increase in fishing effort. Actions that increase fishing effort (i.e., FW 40A and 40B) had low negative effects on allocated target species. Overall, the cumulative effect of past, present, and reasonably foreseeable future fishing actions have resulted in positive effects on allocated target species.

Non-allocated Target Species and Bycatch

Past, Present Actions: Non-allocated target species and bycatch refers primarily to skates, monkfish, and dogfish. These species dominate bycatch (i.e., dogfish) or are the primary alternate species that are landed by groundfishermen (i.e., monkfish and skates). NE multispecies FMP management actions that reduce fishing effort (i.e., Amendment 13, FWs 42 and 44, and Amendment 16) have or will likely have positive effects on both landed species and on bycatch. Conversely, actions that increase fishing effort (i.e., FW 40A and FW 40B) have low negative effects on both landed species and bycatch.

Spiny dogfish primarily interacts with gillnet and hook and line gear, and represented over 90 percent of the bycatch reported by the Georges Bank Cod Fixed Gear and Hook Sectors in previous years. The spiny dogfish FMP was implemented in 2000 in response to a decline in the female spawning stock biomass, and it initiated stock rebuilding measures. The species is not overfished and overfishing is not occurring.

Monkfish are currently regulated by the Monkfish FMP, which was implemented in 1999. The Monkfish FMP and subsequent amendments and framework actions have reduced fishing effort over the last decade, which has resulted in positive impacts for groundfish and non-groundfish stocks (including bycatch).

Skates are currently managed under an FMP, and Amendment 3 to the FMP went into effect in July 2010. The management measures in Amendment 3 to the Skate FMP reduce discards and landings in an effort to sufficiently to rebuild stocks of winter, thorny, and smooth skates, and to prevent other skates from becoming overfished through effort reductions. Therefore, the impacts should be positive for skates, which in this assessment is considered to be a non-allocated target species.

Future Actions: Implementation of the EFH Omnibus Amendment may result in an indirect positive effect to bycatch species, as they would also receive protection from habitat protection measures. Amendment 5 to the Monkfish FMP will either maintain the current level of fishing effort or allow for additional fishing above the current level, since both stocks of monkfish (North and South) are rebuilt.

NMFS is considering increasing the size of the escape opening for TEDs in the summer flounder fishery, expanding the use of TEDs to other trawl fisheries, and modifying the geographic scope of the TED requirements (74 FR 88 May 8, 2009) to protect sea turtles as part of the Strategy. TED requirements would likely have a positive effect on bycatch and discards.

Summary of Impacts: Actions that reduce fishing effort have had positive effects on non-allocated target species and bycatch because in general, less fishing effort results in less impact to non-allocated target species and bycatch. Conversely, actions that increase fishing effort (i.e., FW 40A and FW 40B) are considered to have low negative effects on non-allocated target species and bycatch because more fishing generally results in more non-allocated target species and bycatch. TEDs requirements would likely have a positive effect on non-allocated target species and bycatch and discards as they would likely exclude some of these species from capture in the cod-end. Overall, the cumulative effect of past, present, and reasonably foreseeable future fishing actions have resulted in positive effects on non-allocated target species and bycatch.

Protected Resources

Past and Present Actions: Past and present management actions that reduce fishing effort also reduce gear interaction with protected resources, resulting in positive effects. FW 40A and 40B allowed minor increases in fishing with fixed gear, which has negligible impacts on protected resources. Other recent fishery management actions, including Amendments 13, 16 and FWs 42 and 44 to the NE multispecies FMP benefit protected resources. Amendment 3 to the Skate FMP reduces fishing effort, resulting in low positive effects to protected resources. The ALWTRP has and continues to positively affect large whales by reducing injuries and deaths of large whales (North Atlantic right, humpback, and fin) in waters off the U.S. East Coast due to incidental entanglement in fishing gear. Further, The Harbor Porpoise Take Reduction Plan (HPTRP) for the Gulf of Maine and Mid-Atlantic Coasts was originally implemented in 1998, and NMFS published a proposed rule in July 2009 indicating additional management restrictions for gillnetters. Future measures of this plan may be implemented if take reduction goals are not met, which could further reduce fishing effort.

Future Actions: The likely impacts of the EFH Omnibus Amendment on protected resources cannot be determined at this time. The sea turtle Strategy is a gear-based approach to addressing sea turtle bycatch and would decrease impacts to sea turtles from fishing operations. NMFS is working to develop and implement bycatch reduction measures in all trawl fisheries in the Atlantic and Gulf of Mexico (72 FR 7382, February 15, 2007) and is considering amendments to the regulatory requirements for TEDs (72 FR 7382).

Human Communities

Past and Present Actions: Past and present actions that have had negative short-term and low positive long-term impacts to the port communities and positive impacts to sector members include Amendment 13, FWs 42 and 44, and Amendment 16 to the NE multispecies FMP. These actions both

substantially cut fishing effort in order to rebuild stocks by mandated timeframes, resulting in economic losses in the short-term. Because these actions are designed to rebuild the groundfish stocks and stabilize the fishing industry, these actions are expected to have long-term positive effects on the human communities.

FW 40A implemented the Closed Area I Hook Gear Haddock SAP which allowed increased opportunities for the Georges Bank Cod Fixed Gear and Hook Sectors to fish healthy haddock stocks using hook gear only, resulting in a low positive effect for members of these sectors. FW 41 allowed non-sector vessels to participate in the Closed Area I Hook Gear Haddock SAP, which extended the positive economic effects to non-sector vessels and increased revenue for the port communities, resulting in a low positive effect. FW 40B allowed vessels with no hook history to join the Georges Bank Cod Hook Sector and contribute their historical cod landings to the Sector's allocation based on landings made with gear types other than hook gear, resulting in a low positive impact to the Sector participants.

The ALWTRP had impacts on the human community ranging from low negative to negligible; primarily because these measures required minor gear modifications for gillnet gear to reduce impacts to protected resources. Similarly, actions of the HPTRP could have negative impacts, particularly if the impacts from this plan compound reductions implemented via Amendment 16.

In the short-term, the spiny dogfish FMP has had a low negative effect on human communities because of the implementation of quotas and trip limits, therefore, reducing revenue. However, the FY 2009 specifications increased the quota and trip limits because the species is no longer considered overfished nor is overfishing occurring, with an anticipated positive impact on the human communities because there will be a sustainable fishery available for harvest. Amendment 3 to the Skate FMP is likely having negative economic impacts on the ports and Sector members because of the restriction on fishing effort and decreased revenues from skate landings.

Future Actions: Cumulative effects of the EFH Omnibus Amendment cannot easily be determined, but if additional effort restrictions or area closures were implemented, this action too would likely have a negative impact.

As described in an NOI to prepare an EIS as part of the Sea Turtle Strategy (74 FR 88 May 8, 2009), NMFS is considering modification of TED requirements. New TED requirements would likely have a negative economic effect on Sector members that trawl because of the costs associated with adding and/or modifying TEDs to comply with the new regulation and the costs associated with a decrease in landed species if vessels would not offset a loss in catch.

Summary of Impacts: The effects of past, present, and reasonably foreseeable future fishery management actions have been positive on nearly all VECs with the exception of human communities. Mandated reductions in fishing effort have resulted in negative economic impacts to human communities. Management measures designed to benefit protected resources and restrict fishing effort have low negative effects on the human communities. However, the establishment of sectors and the ultimate goal of rebuilding groundfish stocks to sustainable levels will benefit the human communities eventually. Overall, the cumulative effect of past, present, and reasonably foreseeable future fishing actions have resulted in negative effects on human communities.

Non-Fishing Effects: Past, Present, and Reasonably Foreseeable Future Actions

Non-fishing activities that occur in the marine nearshore and offshore environments and their watersheds can cause the loss or degradation of habitat and/or affect the species that reside in those areas. Table 5.2.4-1 in the attached original sector EA provides a summary of past, present, and reasonably foreseeable non-fishing activities and their expected effects on VEC's in the affected

environment. The following discussions of impacts are based on past assessments of activities and assume these activities will likely continue into the future as projects are proposed. More detailed information about these and other activities and their impacts are available in the publications by Hansen (2003) and Johnson et al. (2008).

Construction/Development Activities and Projects: Construction and development activities include, but are not limited to, point source pollution, agricultural and urban runoff, land (roads, shoreline development, wetland loss) and water-based (beach nourishment, piers, jetties) coastal development, marine transportation (port maintenance, shipping, marinas), marine mining, dredging and disposal of dredged material and energy-related facilities, all of which are discussed in detail in Johnson et al. (2008). These activities can introduce pollutants (through point and non-point sources), cause changes in water quality (temperature, salinity, dissolved oxygen, suspended solids), modify the physical characteristics of a habitat or remove/replace the habitat altogether. Many of these impacts have occurred in the past and present and their effects would likely continue in the reasonably foreseeable future. It is likely that these projects would have negative impacts caused from disturbance, construction, and operational activities in the area immediately around the affected project area. However, given the wide distribution of the affected species, minor overall negative effects to offshore habitat, protected resources, allocated target stocks, and non-allocated target species and bycatch are anticipated since the affected areas are localized to the project sites, which involve a small percentage of the fish populations and their habitat. Thus, these activities for most biological VECs would likely have an overall low negative effect due to limited exposure to the population or habitat as a whole. Any impacts to inshore water quality from these permitted projects, including impacts to planktonic, juvenile, and adult life stages, are uncertain but likely minor due to the transient and limited exposure. It should be noted that wherever these activities co-occur, they are likely to work additively or synergistically to decrease habitat quality and, as such, may indirectly constrain the sustainability of the allocated target stocks, non-allocated target species and bycatch, and protected resources.

Restoration Projects: Other regional projects that are restorative or beneficial in nature include estuarine wetland restoration; offshore artificial reef creation, which provides structure and habitat for many aquatic species; and eelgrass (*Zostera marina*) restoration, which provides habitat for, among other things, juvenile Atlantic cod. These types of projects improve habitats, including nursery habitats for several commercial groundfish species. Due to past and present adverse impacts from human activities on these types of habitat, restorative projects likely have slightly positive effects at the local level.

Protected Resources Rules: The NMFS final Rule on Ship Strike Reduction Measures (73 FR 60173, October 10, 2008) is a non-fishing action in the United States-controlled North Atlantic that is likely to affect endangered species and protected resources. The goal of this rule is to significantly reduce the threat of ship strikes on North Atlantic right whales and other whale species in the region. Ship strikes are considered the main threat to North Atlantic right whales; therefore, NMFS anticipates this regulation will result in population improvements to this critically endangered species.

Energy Projects: Cape Wind Associates (CWA) has received approval to construct a wind farm on Horseshoe Shoal, located between Cape Cod and Nantucket Island in Nantucket Sound, Massachusetts. The CWA project would have 130 wind turbines located as close as 4.1 miles off the shore of Cape Cod in an area of approximately 24 square miles with the turbines being placed at a minimum of 1/3 of a mile apart. The potential impacts associated with the CWA offshore wind energy project include the construction, operation, and removal of turbine platforms and transmission cables; thermal and vibration impacts; and changes to species assemblages within the area from the introduction of vertical structures. Other offshore projects that can affect VECs include the construction of offshore liquefied natural gas (LNG) facilities such as the project “Neptune.” As it

related to the impacts of the Proposed Action, the Neptune project is expected to have small, localized impacts where the pipelines and buoy anchors contact the bottom.

Summary of Impacts: Most of the impacts from these aforementioned activities are uncertain but would likely range from negative to low negative in the immediate areas of the project site. However, on a larger-scale population level, these activities are likely to have a low negative to negligible impact on a population level, considering that the large portion of the populations have a limited or negligible exposure to these local non-fishing perturbations and that existing regulatory requirements would likely mitigate the severity of many impacts (see Table 5.2.4-1 in the attached original sector EA).

Summary of Cumulative Effects

The following analysis summarizes the cumulative effects of past, present, and reasonably foreseeable future actions in combination with the proposed action on the VECs identified in Section 5.1.

Physical Environment/Habitat/EFH

While the impact analysis in this action is focused on direct and indirect impacts to the physical environment and EFH, there are a number of non-fishing impacts that must be considered when assessing cumulative impacts. Many of these activities are concentrated near-shore and likely work either additively or synergistically to decrease habitat quality. Other non-fishing factors such as climate change and ocean acidification are also thought to play a role in the degradation of habitat. The effects of these actions, combined with impacts resulting from years of commercial fishing activity, have negatively affected habitat. However, impacts from the proposed action were found to be negligible. Therefore, when considering the cumulative effects of this action in combination with past, present, and reasonably foreseeable future actions, no significant impacts to the physical environment, habitat or EFH from the proposed action are expected.

Allocated Target Species

As found in the cumulative effects analysis for Amendment 16 to the FMP (NEFMC 2009), the long-term trend has been positive for cumulative impacts to target species. While several groundfish species remain overfished or overfishing is occurring, substantial effort reductions since implementation of the NE Multispecies FMP have allowed several stocks to rebuild and the rebuilding process for others is underway. Further, indirect impacts from the effort reductions in other FMPs are also thought to contribute to groundfish mortality reductions. These factors, when considered in conjunction with the proposed action which would have negligible impacts to allocated target species due to the implementation of an ACE, would not have any significant cumulative impacts.

Non-allocated Target Species and Bycatch

The primary non-allocated target and bycatch species analyzed for the purposes of this EA are monkfish, spiny dogfish, and skates. Management efforts in the past have led to each of these species being managed under their own FMP, and with the exception of smooth and thorny skates which are overfished; none of these species is overfished, nor is overfishing occurring. Impacts to all of these species from the proposed action were found to be negligible, except for the exemption to the 50-net limit which was found to have a low negative impact because it could increase the catch of monkfish, dogfish and skates. However, this potential increase in effort when taken into context with past actions to manage to the mortality of these species and the Amendment 3 action to the Skate FMP which adds further skate rebuilding measures would not result in any significant cumulative impacts.

Protected Resources

Similar to impacts found in the original sector EAs, exemptions under the proposed action may increase the potential for gear interactions with protected species. This potential increase in gear interaction would likely have low negative impacts on protected resources. Historically, the implementation of FMPs has resulted in reductions in fishing effort and as a result, past fishery management actions are thought to have had a slightly positive impact on strategies to protect protected species. Gear entanglement continues to be a source of injury or mortality, resulting in some adverse effects on most protected species to varying degrees. One of the goals of future management measures will be to decrease the number of marine mammal interactions with commercial fishing operations. Measures adopted by Amendment 16 to the Northeast Multispecies FMP will substantially reduce the overall commercial fishing effort and the amount of groundfish that can be caught, relative to historical amounts that have been harvested by the commercial multispecies fleet. The cumulative result of these actions to meet mortality objectives will be positive for protected resources. The effects from non-fishing actions are also expected to be low negative as the potential for localized harm to VECs exists. The combination of these past actions along with future initiatives to reduce turtle interactions through the Sea Turtle Strategy when considered with the proposed action would not result in significant cumulative impacts.

Human Communities and Social and Economic Environment

The ability of sector participants to request all of the proposed exemptions would have low positive impacts due to the increased flexibility that this would provide. However, the outcome for ports is mixed. While granting most exemptions would result in a negligible impact, exemptions to the 120-day gillnet block, 20-day spawning block, and gillnet limit would have a low-negative impact relative to greater potential for gear conflicts. Past management actions have had significant negative impacts on communities that depend on the groundfish fishery, particularly as a result of decreases in revenue. Although special programs implemented through Amendment 13 and subsequent framework actions have provided the industry additional opportunities to target healthier groundfish stocks, substantial increases in landings and revenue will likely not take place until further stock rebuilding occurs under the Amendment 16 rebuilding plan. Impacts, both positive and negative, from the proposed action would likely due little to change this finding. Therefore, the proposed action when taken into consideration with past, present, and reasonably foreseeable future actions is not expected to have significant cumulative impacts.

Table 6 Cumulative Effects Resulting from Implementation of the Proposed Action and CEA Baseline

		Habitat Impacts	Biological Impacts			Human Community Impacts	
		Habitat	Allocated Target Species	Non-allocated Target Species and Bycatch	Endangered/ Protected Species	Ports	Sector Participants
Cumulative Effect Baseline	Effects of Sectors (May 1 EAs) (see Table 5.2.2-1)	Negl	Negl	Negl	Likely L(-)	L(+)	L(+)
Cumulative Effect Baseline	Effects of Past, Present, and Reasonably Foreseeable Future Non-Fishing Actions (see Table 5.2.4-1)	(-) to L(-)	L(-)	L(-)	L(-)	Negl to L(-)	Negl to L(-)
Cumulative Effect Baseline	Effects of Past, Present, and Reasonably Foreseeable Future Fishing Actions (see Table 5.2.3-1)	(+)	(+)	(+)	(+)	(-)	(-)
Direct and Indirect Effects of Proposed/Supplemental Action (see Table 5.1-1)		Likely Negl	Negl	Likely Negl	L(-)	Mixed	L(+)
Cumulative Effects Summary of Effects from implementation of Proposed Action and Cumulative Effect Baseline		Negl	Negl	Negl	Likely L(-)	L(+)	L(+)

6.0 LIST OF PREPARERS AND PERSONS/AGENCIES CONSULTED

This document was prepared by the National Marine Fisheries Service staff in the Sustainable Fisheries Division (Melissa Vasquez), and the National Environmental Policy Group (Brian Hooper, Cheryl Quaine & Jennifer Anderson). In addition, this document was reviewed by NMFS staff in the following divisions:

Habitat Conservation Division, Northeast Region Office, Gloucester, MA
Protected Resource Division, Northeast Region Office, Gloucester, MA
Sustainable Fisheries Division, Northeast Region Office, Gloucester, MA
NEPA Group, Northeast Region Office, Gloucester, MA
Social Sciences Branch, Northeast Fisheries Science Center, Gloucester, MA

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7.0 COMPLIANCE WITH APPLICABLE LAWS AND EXECUTIVE ORDERS

7.1 MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Section 301 of the Magnuson-Stevens Act requires that FMPs contain conservation and management measures that are consistent with the ten National Standards. The most recent FMP changes implemented by Amendment 16 address how the proposed management actions comply with the National Standards. Under Amendment 16, the NEFMC adopted conservation and management measures that would end overfishing and rebuild NE multispecies stocks to achieve, on a continuing basis, the optimum yield for NE multispecies stocks and the U.S. fishing industry using the best scientific information available consistent with National Standards 1 and 2. The NE Multispecies FMP and implementing regulations manage all 20 groundfish stocks (13 species) throughout their entire range, as required by National Standard 3. Section 9.1.1 of Amendment 16 describes how the sector measures implemented under that action do not discriminate among residents of different states consistent with National Standard 4, do not have economic allocation as their sole purpose (National Standard 5), account for variations in these fisheries (National Standard 6), avoid unnecessary duplication (National Standard 7), take into account fishing communities (National Standard 8), addresses bycatch in fisheries (National Standard 9), and promote safety at sea (National Standard 10). By proposing to meet the National Standards requirements of the Magnuson-Stevens Act through future FMP amendments and framework actions, the NEFMC will ensure that overfishing is prevented, overfished stocks are rebuilt, and the maximum benefits possible accrue to the ports and communities that depend on these fisheries and the Nation as a whole.

The proposed action would comply with all elements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), including the National Standards, and the NE Multispecies FMP. This action is being taken in conformance with the NE Multispecies FMP, which requires that an EA of sector operations plans be prepared in compliance with NEPA, Magnuson-Stevens Act, and other applicable laws and Executive Orders. Amendment 13 to the FMP established the sector operations plan approval process. Amendment 16 to the FMP authorized 17 new sectors and revised the regulations governing all 19 sectors. A final rule published April 9, 2010 (75 FR 18113), approved fishing year (FY) 2010 operations plans for 17 sectors, including the GB Cod Fixed Gear Sector, Sustainable Harvest Sector, Port Clyde Community Groundfish Sector, Tri-

State Sector, Northeast Coastal Communities Sector, and Northeast Fishery Sectors I through XII. Nothing in this action changes the findings that the measures approved in Amendment 16 or the final rule approving FY 2010 sector operations comply with the provisions of the Magnuson-Stevens Act, NEPA, and other applicable law.

There are no adverse impacts associated with this action, so no EFH assessment or EFH consultation is required, as determined by a Habitat Conservation Division Review (July 28, 2010).

7.2 ENDANGERED SPECIES ACT (ESA)

Section 7 of the ESA requires Federal agencies conducting, authorizing, or funding activities that affect threatened or endangered species to ensure that those effects do not jeopardize the continued existence of listed species. An informal consultation under the ESA was concluded for this action on September 8, 2010. As a result of the informal consultation, NMFS has determined that the FY 2010 sector operations plan addenda and the prosecution of the associated sector activities will neither jeopardize the continued existence of endangered and threatened species, nor destroy or adversely modify designated critical habitat. NMFS has also determined that the Proposed would not cause an effect to ESA-listed species not considered in previous consultations on the FMP; and, therefore, does not trigger the need to reinitiate consultation. For further information on the potential impacts of the proposed management action, see Section 5.1.4.1 of this supplemental EA.

7.3 MARINE MAMMAL PROTECTION ACT (MMPA)

NMFS has reviewed the impacts of the FY 2010 sector operations plan addenda on marine mammals and concluded that the management actions proposed are consistent with the provisions of the MMPA and would not alter existing measures to protect the species likely to inhabit the management unit of the NE multispecies FMP. For further information on the potential impacts of the proposed management action, see Section 5.1.4.1.

7.4 NATIONAL ENVIRONMENTAL POLICY ACT

7.4.1 Revised FONSI

This supplement updates the 17 Findings of No Significant Impact (FONSI) consistent with the conclusions derived in the initial EAs and this document.

National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6 (NAO 216-6) (May 20, 1999) contains criteria for determining the significance of the impacts of a Proposed Action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 C.F.R. 1508.27 states that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed below is relevant in making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

1. *Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. Further, the Proposed Action for the Supplemental EA would not jeopardize the sustainability of any of the target species (cod [GB and GOM stocks], haddock [GB and GOM stocks], yellowtail flounder [GB, GOM, SNE stocks], American plaice, witch flounder, winter flounder [GB and GOM stocks], redfish, white hake, and pollock) affected by the action,

because the each sector has an Allowable Catch Entitlement (ACE) for each stock listed above that is a portion of the Annual Catch Limit (ACL) established by the Northeast (NE) Multispecies FMP and that would be adhered to on an annual basis. The biological impacts of the Proposed Action on the allocated target species are analyzed in Section 5.1.2.1.

2. *Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. Further, the Proposed Action for the Supplemental EA is not expected to jeopardize the sustainability of any non-allocated target species. If increased flexibility by the sectors improves the harvest of target species similarly to non-allocated target species and bycatch, then the relative catch rate of non-allocated target species and bycatch would be controlled by ACE. Once an ACE has been reached, fishing must cease. If Sector members are able to successfully target certain allocated species, the amount of bycatch would decline relative to historical catch. The anticipated effect of granting the additional exemptions under allocations constrained by ACEs (as described in Amendment 16) would be to convert more vessel catch into landings and less into discards than if those same vessels were to fish under the conditions established for May 1, 2010 (Section 5.1.3.1).

3. *Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. Further, the Proposed Action for the Supplemental EA is not expected to allow substantial damage to the ocean and coastal habitats and/or Essential Fish Habitat (EFH) as defined under the Magnuson-Stevens Act and identified in the FMP. Further, since sectors will continue to use traditional fishing gear and maintain current fishing practices, the Proposed Action will have the same impacts on marine habitats or EFH as vessels would as of May 1, 2010 if the exemptions weren't granted because they will be using similar gear and largely fishing in the same areas (Section 5.1.1.1).

4. *Can the proposed action be reasonably expected to have a substantial adverse impact on public health or safety?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. Further, the Proposed Action for the Supplemental EA is not expected to have a substantial adverse impact on public health and safety. Sectors will continue routine fishing operations and would not decrease safety at sea. Because of fishing effort would be controlled by species-specific ACE rather than Days-At-Sea, sector members would have increased flexibility to decide when to fish. This flexibility would likely increase revenues, allow fishermen to more fully exploit previously under-exploited stocks, and reduce incentive to fish in unsafe conditions (Section 5.1.5.1).

5. *Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. Further, the Proposed Action for the Supplemental EA is not expected to have an adverse impact on endangered or threatened species, marine mammals, or critical habitat of these species. Sector vessels will continue to use trawls, gillnets, hook and line gear..

Impacts to cetaceans and pinnipeds from the use of gillnets would be minimized by use of the Take Reduction Plans, as discussed in Section 4.4.4 of the original EAs. Trawl gear is generally considered to have low impacts on most protected resources. Hook and line gear is generally considered to have low impacts on most protected resources. Provisions of Amendment 16 exempted sectors from effort control measures (e.g., DAS limits, trip limits, area closures, and mesh size) which generally allow for an increased chance of interactions between sector vessels and protected resources due to fishing activities in previously closed areas and a potential increase in gear days. Overall, impacts to protected resources associated with operation of the sector would likely be low negative, but not significant (Section 5.1.4.1).

6. *Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. Further, the Proposed Action for the Supplemental EA is not expected to have a substantial impact on biodiversity and ecosystem function within the affected area. Sector vessels are already limited in the amount of groundfish they can catch and land. Once the ACE has been reached, sector vessels would no longer be able to expend effort on catching groundfish.

7. *Are significant social or economic impacts interrelated with natural or physical environmental effects?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. Further, there are no significant social and economic impacts of the Proposed Action for the Supplemental EA that are interrelated with natural or physical environmental effects. The Proposed Action grants additional exemptions from fishery regulations. While sector vessels would be exempt from several restrictions of the FMP, sector members primarily use trawl, gillnet, and hook and line gear and maintain traditional fishing practices which will have no greater impact on habitat, protected species, and limit bycatch species as compared to the common pool and the groundfish fishery before sectors (Sections 5.1.2 through 5.1.4). The additional exemptions allow flexibility and economic opportunity to the Sector members and their communities. However, within the context of the region and the fishery as a whole, these benefits would continue to be insignificant as determined under criteria of the Regulatory Flexibility Act (see Section 7.9). Further, while the Sector members benefit socially and economically by the approval of the additional exemptions, this opportunity is not related with any impacts associated with the biological or physical environment. Therefore, the social and economic impacts are not interrelated with significant natural or physical environmental effects.

8. *Are the effects on the quality of the human environment likely to be highly controversial?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. Further, the effects of the Proposed Action for the Supplemental EA on the quality of human environment are not expected to be highly controversial. These additional exemptions have already received public comment and are simply being applied the remaining sectors. The Proposed Action would not modify rebuilding plans and specifications adopted by Amendment 16 and Framework 44, which are needed to rebuild groundfish stocks. The Proposed Action is not expected to negatively impact habitat, allocated target species, non-allocated target species and bycatch, protected resources as described in Sections 5.1.2 through 5.1.4.

9. *Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, parkland, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. Further, the Proposed Action cannot be reasonably expected to result in substantial impacts to unique areas or ecological critical areas. There are no known parkland, prime farmlands, wetlands, or wild scenic rivers in the study area. Vessel operations around the unique historical and cultural resources encompassed by the Stellwagen Bank National Marine Sanctuary would not likely be altered by this action. Traditional gears are used by sector vessels and this action does not propose alterations in the groundfish fishery. As a result, no substantial impacts are expected from this action.

10. *Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. Further, the effects of the Proposed Action for the Supplemental EA on the human environment are not expected to be highly uncertain or involve unique or unknown risks. Sector vessels will primarily use trawl, gillnet, and hook and line gear and maintain traditional fishing practices which will have no greater impact on habitat, protected species, and limit bycatch species as those conditions existing May 1, 2010 (Sections 5.1.2 through 5.1.4). Approval of the additional exemptions would mitigate impacts of Amendment 13, Framework 42, and Amendment 16 to the NE Multispecies FMP on human communities by conveying environmental, social, and economic benefits directly to sector and their associated communities., while at the same time meeting the conservation requirements of the FMP. The exemptions have already been analyzed in the original EA, have been in effect since May 1, 2010 and therefore, the effects on the human environment are not uncertain or involve unique or unknown risks.

11. *Is the proposed action, related to other actions with individually insignificant, but cumulatively significant impacts?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. Further, the cumulative effects analysis presented in Section 5.2 of this supplemental document considers the impacts of the Proposed Action in combination with relevant past, present, and reasonably foreseeable future actions and concludes that no significant cumulative impacts are expected from the approval of the additional exemptions. Since none of the cumulative impacts of the original Proposed Action or the Supplemental Proposed Action are considered significant, and the measures under Amendment 16 are environmentally preferred, Section 5.2 of this document concluded there are no significant cumulative impacts among these related actions. Further, the Proposed Action would not have any significant impacts when considered individually or in conjunction with any of the other actions presented in Section 5.2 (fishing related and non-fishing related).

12. *Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. Further, the fishing operations would take place on ocean waters and would not affect any human communities on the adjacent shorelines. There are no known districts, sites, or highways in the area of the Proposed Action. The Proposed Action is not likely to affect objects listed in the National Register of Historic Places or cause significant impact to scientific, cultural, or historical resources. The only object in the fishery area that is listed in the National Register of Historic Places is the wreck of the steamship *Portland* within the Stellwagen Bank National Marine Sanctuary. The current regulations allow fishing within the Stellwagen Bank

National Marine Sanctuary. The Proposed Action would not regulate current fishing practices within the sanctuary. However, vessels typically avoid fishing near the wreck to avoid tangling gear on the wreck. Therefore, this action would not result in any adverse affects to the wreck of the *Portland*. Due to the minimal impact on the human environment, the effect of the approval of the additional exemptions would not be significant on scientific, cultural, or historical resources.

13. *Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. Further, no non-indigenous species would be introduced during the Proposed Action because operation of sectors is confined to traditional fishing practices, and no non-indigenous species would be used or transported during sector activities. Therefore, the Proposed Action would not be expected to result in the introduction or spread of a non-indigenous species.

14. *Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. While Amendment 16 established multiple sectors and the process of their allocation, each sector proposal and each Operations Plan and allocation is considered individually on its own merits and expected impacts, and includes a specified process for public comment and consideration. Further, each sector must submit their Operations Plan and requested exemptions annually for approval.

15. *Can the proposed action reasonably be expected to threaten a violation of federal, state, or local law or requirements imposed for the protection of the environment?*

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. The Proposed Action is not expected to threaten a violation of federal, state, or local law or requirements imposed for the protection of the environment. Sector vessels are still required to comply with all local, regional, and national laws and permitting requirements.

16. *Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species*?

Response: The responses from each of the 17 FONSIs resulting from the original EAs are incorporated here by reference. The Proposed Action is not expected to result in cumulative adverse effects that could have a substantial effect on target or non-target species. As stated in Sections 5.1.2 and 5.1.3, impact on resources encompassing groundfish and other stocks is expected to be minimal.

DETERMINATION

In view of the information presented in this document, the analysis contained in the supporting EA prepared for the approval of additional exemptions for Multispecies sector vessels, and the original EAs prepared for approval of each sector's Operations Plan, it is hereby determined that the approval of the additional exemptions will not significantly impact the quality of the human environment as described above and in the supporting EA. In addition, all beneficial and adverse impacts of the Proposed Action have been addressed to reach the conclusion of no significant impacts. Accordingly,

preparation of an Environmental Impact Statement (EIS) for this action is not necessary.

Patricia A. Kurkul — Nov 23, 2010 (Date)

Regional Administrator Northeast Region, NMFS

7.5 ADMINISTRATIVE PROCEDURE ACT (APA)

Section 553 of the APA establishes procedural requirements applicable to rulemaking by federal agencies. The purpose of these requirements is to ensure public access to the Federal rulemaking process and to give the public adequate notice and opportunity for comment. At this time, no abridgement of the rulemaking process for this action is being requested and the proposed measures would be implemented in accordance with the requirements of the APA.

7.6 PAPERWORK REDUCTION ACT (PRA)

The purpose of the PRA is to control and, to the extent possible, minimize the paperwork burden for individuals, small businesses, nonprofit institutions, and other persons resulting from the collection of information by, or for, the Federal Government. PRA for data collections relating to sectors have been considered and evaluated under Amendment 16 to the FMP and approved by the Office of Management and Budget (OMB) under OMB Control Number 0648-0605. This action relies upon the existing collections, including those approved by the OMB under Amendment 16, and does not propose to modify any existing collections or to add any new collections. Therefore, no review under the PRA is necessary for this action.

7.7 COASTAL ZONE MANAGEMENT ACT (CZMA)

Section 307(c)(1) of the CZMA requires that all Federal activities which affect any coastal use or resource be consistent with approved state coastal zone management programs (CZMP) to the maximum extent practicable. NMFS has reviewed the relevant enforceable policies of each coastal state in the NE region for this action and has determined that this action is incremental and repetitive, without any cumulative effects, and is consistent to the maximum extent practicable with the enforceable policies of the CZMP of the following states: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina. NMFS finds this action to be consistent with the enforceable policies to manage, preserve, and protect the coastal natural resources, including fish and wildlife, and to provide recreational opportunities through public access to waters off the coastal areas. Pursuant to the general consistency determination provision codified at 15 CFR 930.36(c), NMFS sent a general consistency determination applying to the current NE Multispecies FMP, and all routine Federal actions carried out in accordance with the FMP, to the following states: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina on October 21, 2009. In accordance with that determination, NMFS will send a letter advising those states of this action.

7.8 INFORMATION QUALITY ACT (IQA)

Pursuant to NOAA guidelines implementing Section 515 of Public Law 106-554 (the Data Quality Act), all information products released to the public must first undergo a Pre-Dissemination Review to ensure and maximize the quality, objectivity, utility, and integrity of the information (including statistical information) disseminated by or for federal agencies. The following section addresses these requirements.

Utility

The information presented in this document is helpful to the intended users (the affected public) by presenting a clear description of the purpose and need of the proposed action, the measures proposed, and the impacts of those measures. A discussion of the reasons for selecting the proposed action is included so that intended users may have a full understanding of the proposed action and its implications.

This document is the principal means by which the information contained herein is available to the public. The information provided in this document is based on the most recent available information from the relevant data sources. The development of this document and the decisions made by NMFS to propose this action are the result of a multi-stage public process.

The *Federal Register* notice that announces the proposed addenda to the approved FY 2010 sector operations plans and contracts would be made available in printed publication and on the NMFS NE Regional Office website. Instructions for obtaining a copy of this supplemental EA are included in the *Federal Register* notice.

Integrity

Prior to dissemination, information associated with this action, independent of the specific intended distribution mechanism, is safeguarded from improper access, modification, or destruction, to a degree commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information. All electronic information disseminated by NMFS adheres to the standards set out in Appendix III, "Security of Automated Information Resources," of OMB Circular A-130; the Computer Security Act; and the Government Information Security Act. All confidential information (e.g., dealer purchase reports) is safeguarded pursuant to the Privacy Act; Titles 13, 15, and 22 of the United States Code (confidentiality of census, business, and financial information); the Confidentiality of Statistics provisions of the Magnuson Act; and NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics.

Objectivity

For the purposes of the Pre-Dissemination Review, this supplemental EA is considered to be a "Natural Resource Plan." Accordingly, the document adheres to the published standards of the Magnuson-Stevens Act; the Operational Guidelines, Fishery Management Plan Process; the EFH Guidelines; the National Standard Guidelines; and NOAA Administrative Order 216-6, Environmental Review Procedures for Implementing the NEPA.

This information product uses information of known quality from sources acceptable to the relevant scientific and technical communities. Stock status (including estimates of biomass and fishing mortality) reported in this product are based on either assessments subject to peer-review through the Stock Assessment Review Committee, or on updates of those assessments prepared by scientists of the Northeast Fisheries Science Center. Landing and revenue information is based on information collected through Vessel Trip Report and Commercial Dealer databases, as well as the Amendment 16 EIS and the GARM III report. These reports are developed using an approved, scientifically valid sampling process. In addition to these sources, additional information is presented that has been accepted and published in peer-reviewed journals or by scientific organizations. Original analyses in this supplemental EA build upon the analyses contained in the Amendment 16 EIS and sector EAs, and were prepared using data from accepted sources, and the analyses have been reviewed by NOAA.

Despite current data limitations, the measures proposed for this action were selected based upon the best scientific information available. The analyses conducted in support of the proposed action were mainly qualitative, and tier off analyses in the Amendment 16 EIS and sector EAs, which were conducted using information from the most recent complete fishing year at the time they were developed, through FY 2007. The data used in the analyses provide the best available information on the state of each species regulated under the FMP (i.e., GARM III, September 2008; and the DPWG 2009), species and EFH data from NOAA, and fishery landings through FY 2007. Specialists (including professional members of plan development teams, technical teams, committees, and Council staff) who worked with these data are familiar with the most current analytical techniques and with the available data and information relevant to the state of the regulated fisheries under the FMP, fishing techniques in the approved FY 2010 sectors, and the socio-economic impacts of the fisheries on impacted communities.

The policy choices are clearly articulated in Section 3 of this document, as the management alternatives considered in this action. The supporting science and analyses, upon which the policy choices are based, are summarized and described, or incorporated by reference, in Sections 4 and 5 of this supplemental EA. All supporting materials, information, data, and analyses within this document have been, to the maximum extent practicable, properly referenced according to commonly accepted standards for scientific literature to ensure transparency.

The review process used in preparation of this supplemental EA involves the Northeast Fisheries Science Center, the Northeast Regional Office, and NMFS Headquarters. The Center's technical review is conducted by senior level scientists with specialties in population dynamics, stock assessment methods, demersal resources, population biology, and the social sciences. Review by staff at the Regional Office is conducted by those with expertise in fisheries management and policy, habitat conservation, protected species, and compliance with the applicable law. Final approval of the action proposed in this supplemental EA and clearance of any rules prepared to implement resulting regulations is conducted by staff at NMFS Headquarters, the Department of Commerce, and the United States Office of Management and Budget.

7.9 REGULATORY FLEXIBILITY ACT (RFA)

The RFA requires agencies to assess the impacts of their proposed regulations on small entities. The Regulatory Flexibility Act Analysis (RFAA) determines whether the proposed action would have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) size standards define whether a business entity is small and, thus, eligible for Government programs and preferences reserved for "small business" concerns. Size standards have been established for all for-profit economic activities or industries in the North American Industry Classification System (NAICS). The SBA defines a small business in the commercial fishing and recreational fishing sector, as a firm with receipts (gross revenues) of up to $4 million.

This section provides an assessment and discussion of the potential economic impacts of the proposed action, as required of the RFA. The objective of the RFA is to require consideration of the capacity of those affected by regulations to bear the direct and indirect costs of regulation. The Final Regulatory Flexibility Analysis (FRFA) must identify the number and types of businesses that would be regulated, indicate how many of these entities are small businesses, explain the expected economic impact of the regulation on small businesses, and describe any feasible alternatives that would minimize the economic impacts. The number of regulated entities for this action is 762, the number of permits enrolled in sectors that have requested additional exemptions. Each of these permits would be considered a small entity, based on the definition as stated above. The economic impact resulting from this action on these small entities is positive since the action would provide additional operational flexibility to vessels already participating in NE multispecies sectors for FY 2010. In

addition, this action would further mitigate negative impacts from the implementation of Amendment 16 and Framework Adjustment 44, which have placed additional effort restrictions on the groundfish fleet.

Description of the Reasons Why Action by Agency is Being Considered

The flexibility afforded sectors includes exemptions from certain specified regulations as well as the ability to request additional exemptions. Sector members no longer have groundfish catch limited by DAS allocations and are instead limited by their available ACE. In this manner, the economic incentive changes from maximizing the value of throughput of all species on a DAS to maximizing the value of the sector ACE, which places a premium on timing of landings to market conditions as well as changes in the selectivity and composition of species landed on fishing trips. Exemptions approved for sectors through the final rule approving FY 2010 sector operations plans provided sector vessels additional operational flexibility to maximize the value of their ACE. NMFS is proposing expanding these previously approved sector-specific exemptions, as well as approving the GOM Sink Gillnet and partial discarding exemptions, to those FY 2010 sectors that have requested to provide additional flexibility to sector vessels. Further description of the purpose and need for the proposed action is contained in Section 2.0 of this supplemental EA.

The Objectives and Legal Basis for the Proposed Action

The objective of the proposed action is to authorize the expansion of exemptions approved for FY 2010 sectors, as well as the approval of one new exemption, to all sectors that request them through the approval of addenda to the FY 2010 sector operations plans. The proposed action would allow the benefits of sector operations under approved exemptions to accrue to the 762 permits enrolled in sectors that have requested them and the New England communities where they dock and land. The legal basis for the proposed action is the NE Multispecies FMP and promulgating regulations at 50 CFR § 648.87.

Estimate of the Number of Small Entities

Under the SBA size standards for small fishing entities ($4 million), all permitted and participating vessels in the groundfish fishery are considered to be small fishing entities. Gross sales by any one entity (vessel) do not exceed this threshold. The maximum number of entities that could be affected by the proposed exemptions is 762 permits - the number of vessels enrolled in the 17 FY 2010 sectors that have submitted a request for an operations plan addendum.

Reporting, Recordkeeping and Other Compliance Requirements

The proposed action does not mandate any reporting requirements beyond those already required by the approved FY 2010 sector operations plans and current Federal regulations. Exemptions implemented through this action would be documented on the Letter of Authorization already issued to each vessel participating in an approved sector. Sector vessels receiving an exemption from the gillnet limit (up to 150 nets) would also be exempt from current tagging requirements and would instead be required to tag gillnets with one tag per net. Compliance with the tagging requirement would not necessarily require sector vessels to purchase additional net tags, as each vessel is already issued up to 150 tags. However, sector vessels that have not previously purchased the maximum number of gillnet tags may find it necessary to purchase additional tags to comply with this requirement at a cost of $1.20 per tag. The exemptions from the 20-day spawning block and the 120-day gillnet block would alleviate the reporting burden for sector vessels, because exemptions from these requirements eliminate the need to report the blocks to the NMFS Interactive Voice Response system. The GOM Sink Gillnet exemption does not involve additional reporting requirements. However, to fully utilize this exemption, sector vessels would need to purchase 6-inch

mesh gillnet nets. At the time this FRFA was prepared, no cost information was available for a 6-inch mesh gillnet panel. However, the cost of a 6.5-inch mesh 300-foot gillnet panel, complete with floats and break-away links, was estimated at $310. The quantity of 6-inch mesh gillnets purchased by a vessel to participate in this program would depend on the vessel's gillnet designation (a Day gillnet vessel would have a net limit, as determined by the final rule) and the perceived economic benefits of utilizing the exemption, which may be based on market conditions.

Other exemptions implemented through this action involve no additional reporting requirements. Sector reporting and recordkeeping regulations do not exempt participants from State and Federal reporting and recordkeeping, but are mandated above and beyond current State and Federal requirements. A full list of compliance, recording, and recordkeeping requirements can be found in the final rule implementing Amendment 16 (April 9, 2010; 75 FR 18262) each approved FY 2010 sector operations plan and in the draft addenda.

Duplication, Overlap or Conflict with other Federal Rules

The proposed action is authorized in Amendment 16 to the NE Multispecies FMP and expands the sector activities approved through the final rule approving the FY 2010 sector operations plans (75 FR 18113). It does not duplicate, overlap, or conflict with other Federal rules.

Alternatives which Minimize any Significant Economic Impact of Proposed Action on Small Entities

The proposed action would create a positive economic impact for the participating sector vessels because it would provide additional operational flexibility for vessels participating in FY 2010 sectors and would further mitigate impacts from restrictive management measures implemented under Amendment 16. Little quantitative data on the precise economic impacts is available because sector management is relatively new to New England groundfish management. It is anticipated that providing additional flexibility to sector vessels operating under a sector ACE through the approval of additional exemptions would allow sector members to remain economically viable, while adjusting to changing economic and fishing conditions. Thus, the proposed action provides benefits to sector members that they would not have under the No Action Alternative.

Economic Impacts on Small Entities Resulting from Proposed Action

The EIS for Amendment 16 compares economic impacts of sector vessels with common pool vessels and analyzes costs and benefits of the universal exemptions. The proposed rule for the approval of the FY 2010 sector operations plans and contracts (74 FR 68015, December 22, 2009) and its accompanying EAs discussed the economic impacts of the additional exemptions requested by sectors. This proposed rule and supplemental EA discuss the economic impacts of expanding the additional exemptions approved for FY 2010 sectors, as well as the approval of the GOM Sink Gillnet exemption and the partial discarding exemption.

All exemptions requested by the approved FY 2010 sectors are requested to generate positive social and economic effects for sector members and ports.

The GOM Sink Gillnet exemption is being requested by NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, SHS, PCS, FGS, and TSS, which represent 616 permits. This exemption would allow the use of 6-inch mesh gillnets in the GOM RMA from January 1, 2011-April 30, 2011. This exemption would provide participating sector vessels an opportunity to target 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 mesh gillnets. The cost of a 6-inch mesh gillnet is approximately $310 per 300-foot long gillnet panel (net). 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. This would increase fishing revenues to participating vessels and provide greater assurance that sectors would realize the full benefits of allocated ACE for each stock.

SHS, TSS, FGS, PCS, NECC, and Northeast Fishery Sectors VII and VIII, and XI-XIII, representing 422 permits, request exemption from the regulations that currently prohibit sector vessels from discarding any 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 and carcasses. To comply with this requirement, sector vessels have had to retain unmarketable fish, including storing them on the vessel while at sea, and determine a method of disposal upon landing. A partial exemption from this regulation that would allow sector vessels to discard unmarketable fish would provide sector vessels more operational flexibility, by allowing more efficient use of deck space, and improve safety conditions. It would also relieve the burden on sector vessels under the No Action Alternative to find a way to dispose of the unmarketable fish once reaching the dock.

NEFS-II, NEFS-V through NEFS-VIII, NEFS-X, and NEFS-XII are requesting exemption from the Day gillnet 120-day block requirement out of the fishery. 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), some 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 would allow sector members to realize the cost savings associated with retiring the redundant vessel. Furthermore, this exemption would provide additional flexibility to sector vessels to maximize the utility of other sector-specific and universal exemptions, such as the exemption from the Georges Bank 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, and approving the requests by additional sectors for this exemption would extend this flexibility and potential economic benefits to an additional 226 permits.

NEFS-II, NEFS-V through NEFS-VIII, NEFS-X and NEFS-XII, SHS, PCS, FGS, and TSS are requesting exemption from the prohibition on a vessel hauling gear that was set by another vessel. The community fixed gear exemption would allow sector vessels in the Day gillnet category to effectively pool gillnet gear that may be hauled or set by sector members, potentially reducing operational costs and increasing net profits. This provision would 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 approving these additional requests would extend the exemption to an additional 496 permits.

NEFS-II and NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, SHS, PCS, TSS, and NECC, representing an additional 540 permits, are requesting 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. This exemption would also provide an opportunity to improve vessel profitability by increasing the efficiency of vessel operations. The exemption from the number of hooks that may be fished has been granted to the GB Cod Hook Sector every year since 2004 and was granted to the GB Cod Fixed Gear Sector for FY 2010. Approving this exemption for these additional sectors would extend the potential economic benefits to more vessels in other sectors.

NEFS-II and NEFS-III, NEFS-V through NEFS-VIII, NEFS-X through NEFS-XII, SHS, PCS, and TSS have requested to be exempt 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.

NEFS-II and NEFS-III, NEFS-V through NEFS-XIII, FGS, and PCS are requesting 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 when unexpected repairs are necessary. Removing this requirement may not have a substantial impact, but would 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. Approving these exemption requests would extend the exemption to an additional 563 permits.

PCS, TSS, FGS, NEFS-II, NEFS-III, NEFS-V through NEFS-VIII, and NEFS-X through NEFS-XII are requesting an exemption from the limit on the number of nets (not to exceed 150) 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. Currently, 116 permits participating in FY 2010 sectors are exempt from this requirement. The proposed action would extend this flexibility and potential economic benefits to an additional 500 permits.

PCS, FGS, and NEFS-II through NEFS-XIII, request 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 small vessels may lease to. The opposite is true for larger vessels. Exemption from these restrictions would allow greater flexibility to lease DAS between vessels of different sizes and may be expected to 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 proposed action would extend this exemption to an additional 609 permits, which would 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 would not be required while fishing for groundfish, the economic importance of this exemption would be associated with the need to use groundfish DAS when fishing in other fisheries, for example, monkfish.

Other Significant Alternatives

There were several exemptions requested by the sectors for FY 2010 that NMFS subsequently disapproved in the final rule implementing FY 2010 sector operations plans, because of serious concerns with negative environmental impacts that could result from granting the requested exemptions. These disapproved exemptions represent other significant alternatives to the approved sector-specific exemptions. However, no new data or information has become available that would convince NMFS to reconsider the disapproved exemptions. These other significant alternatives are summarized here, but are described in greater detail in Section 8.9 of the EAs accompanying the sector operations plans.

Several sectors requested exemptions from reporting-related requirements. One such exemption was from the requirement to notify the Northeast Fishery Observer Program (NEFOP) at least 72-hours in advance of a trip into a seasonal management program. This exemption could provide vessel owners with additional flexibility when planning and preparing for fishing trips,

however, logistical constraints on the NMFS NEFOP make it impractical to authorize this exemption. Sectors also requested exemption from the requirement that vessels transmit reports directly to NMFS via VMS to facilitate the use of third-party transmission systems to increase reporting flexibility and efficiency. This exemption was not preferred in this action because of concerns about maintaining the chain of custody of information reported to NMFS and could compromise the integrity of data used by NMFS to monitor vessel operations and the harvest of groundfish species.

Two sectors requested exemption from the regulations on minimum fish sizes for several different species, which require that any fish caught that is below the minimum size must be discarded. To the extent that some portion of these fish would otherwise be marketable, exemption from minimum fish sizes would improve economic efficiency of member vessel owners. However, this exemption is not preferred in this action because it presents significant enforcement issues by allowing two different fish sizes in the marketplace and because of concerns it would provide an incentive to target juvenile fish. Targeting juvenile fish may reduce future recruitment into the fishery and could increase fishing mortality and compromise efforts to end overfishing and rebuild overfished stocks.

In addition to the universal rolling closure exemptions as described in § 648.87(c)(2)(ii), several of the sectors requested exemptions from additional portions of the GOM Rolling Closure Areas, including statistical blocks 124, 125, 132, and 133 in April, and block 138 in May. Exempting sector vessels from additional portions of the rolling closures could have improved profitability, since higher catch rates would mean that the same amount of groundfish could be caught at a lower cost. However, this exemption is not preferred in this action because of concerns of the potential impacts to spawning fish and the lack of additional information justifying such an exemption.

One sector requested an exemption from the prohibition on the use of de-hookers with less than 6 inch spacing between the fairlead rollers, to provide greater operational flexibility and efficiency. Granting this exemption would require modification of long-line gear haulers. This requirement was specifically implemented in 2002 (permanently in 2004) to discourage de-hooking strategies that may reduce survival of discarded fish. Therefore, this exemption is not preferred in this action because National Standard 9 requires that NMFS minimize the mortality of bycatch that cannot be avoided.

One sector requested an exemption that would allow members to fish under Maine state regulations for halibut while fishing in state waters, and provide additional fishing opportunities to improve sector member profitability that would not otherwise be available. Because the NE multispecies FMP includes a rebuilding program for Atlantic halibut that attempts to prevent a targeted fishery while minimizing discards, allowing an exemption from the halibut trip limit specifically to allow sector vessels to participate in a targeted halibut fishery would be inconsistent with the FMP and may undermine efforts to prevent overfishing and rebuild this overfished species.

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