

rule on small entities and certifies that a Regulatory Flexibility Analysis is not necessary because the rule will not have a significant economic impact on a substantial number of small entities subject to the requirements of this proposed rule. We assume that all of the 1,490 motor carriers identified by this proposed rule are small entities. However, the direct costs of this rule that small entities may incur are only expected to be minimal. They consist of the costs of lost productivity from foregoing texting while on-duty and fuel usage costs for pulling to the side of the road to idle the truck or passenger-carrying vehicle and send or receive a text message. The majority of motor carriers are small entities. Therefore, PHMSA will use the total cost of this proposed rule (\$5,227) applied to the number of small entities (1,490) as a worse case evaluation which would average \$3.51 annually per carrier.

F. Executive Order 13272 and DOT Regulatory Policies and Procedures

This notice has been developed in accordance with Executive Order 13272 ("Proper Consideration of Small Entities in Agency Rulemaking") and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered.

G. Paperwork Reduction Act

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

H. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

I. Unfunded Mandates Reform Act of 1995

This proposed rule does not impose unfunded mandates, under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$140.8 million or more to either state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

J. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477 through 19478) or you may visit <http://www.dot.gov>. This rule is not a privacy-sensitive rulemaking because the rule will not require any collection, maintenance, or dissemination of Personally Identifiable Information (PII) from or about members of the public.

K. National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of major Federal actions and that they prepare a detailed statement on actions significantly affecting the quality of the human environment. PHMSA assessment did not reveal any significant positive or negative impacts on the environment expected to result from the rulemaking action. There could be minor impacts on emissions, hazardous materials spills, solid waste, socioeconomics, and public health and safety. Interested parties are invited to address the potential environmental impacts of regulations applicable to texting while driving.

List of Subjects in 49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is proposed to be amended as follows:

PART 177—CARRIAGE BY PUBLIC HIGHWAY

1. The authority citation for part 177 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

2. Section 177.804 is amended by:
 - a. Designating the existing text as paragraph (a);
 - b. Adding a heading to the newly designated paragraph (a); and
 - c. Adding a new paragraph (b) to read as follows:

§ 177.804 Compliance with Federal Motor Carrier Safety Regulations.

- (a) *General.* * * *
- (b) *Prohibition against texting.* Drivers of commercial motor vehicles, as defined in 49 CFR 383.5, transporting a

quantity of hazardous materials requiring placarding under 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73 are prohibited from texting while driving in accordance with § 392.80 of the FMCSRs.

Issued in Washington, DC, on September 21, 2010, under authority delegated in 49 CFR part 106.

R. Ryan Posten,

Senior Director for Hazardous Materials Safety.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 100818375–0379–02]

RIN 0648–XX84

Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Reopening of a Proposed Rule Comment Period Through October 1, 2010

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

ACTION: Proposed rule, reopening and extension of comment period.

SUMMARY: NMFS is reopening the comment period for the proposed rule to Implement Addenda to 17 Fishing Year (FY) 2010 Northeast Multispecies Sector Operations Plans and Contracts. The comment period is being reopened and extended to provide additional opportunity for public comment.

DATES: Written comments must be received by 5 p.m., local time on October 1, 2010.

ADDRESSES: You may submit comments, identified by 0648–XX84, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>.
- *Fax:* (978) 281–9135, *Attn:* Melissa Vasquez.

- *Mail:* Paper, disk, or CD–ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: "Comments on 2010 Sector Exemption Rule."

• *Instructions:* All comments received are part of the public record and will generally be posted to <http://www.regulations.gov> without change. No comments will be posted for public viewing until after the comment period has closed. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only. Copies of requests for addenda to the FY 2010 sector operations plans and contracts, and the supplemental environmental assessment (EA), are available from the NMFS NE Regional Office at the mailing address specified above.

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

SUPPLEMENTARY INFORMATION: A final rule published April 9, 2010 (75 FR 18113), approved FY 2010 sector operations plans and contracts and

allocations of annual catch entitlement (ACE) for 17 NE multispecies sectors. Through this final rule, the Regional Administrator also approved exemptions for sector vessels from certain Federal fishing regulations for those sectors that requested them, in addition to the universal exemptions already approved for all sectors through Amendment 16 to the NE Multispecies Fishery Management Plan (FMP).

A proposed rule published on September 2, 2010 (75 FR 53939), proposes to implement addenda to FY 2010 NE multispecies sector operations plans and contracts that would add certain exemptions from Federal fishing regulations for FY 2010 sectors. The proposed rule considers expanding exemptions already approved for some sectors to all those that request them to maximize flexibility and improve profitability for sector vessels. It also proposes approving two new exemption requests: The Gulf of Maine (GOM) Sink Gillnet exemption and the discarding exemption for unmarketable fish. The GOM Sink Gillnet exemption is based on a program originally considered and disapproved for the common pool fishery in Amendment 16 to the NE Multispecies FMP, and would allow sector vessels to use 6-inch (15.24-cm) mesh gillnets in the GOM Regulated

Mesh Area January through April 2011, to target haddock. This action also proposes a partial exemption from the prohibition on discarding of legal-size allocated stocks to allow sector vessels to discard unmarketable fish at sea, to improve safety conditions and operational flexibility for sector vessels.

The proposed rule published in the **Federal Register** with a 15-day comment period that closed on September 17, 2010. The New England Fishery Management Council (Council) will be discussing a number of important sector exemption requests from the proposed rule at their September 28-30, 2010, meeting. Reopening and extending the comment period to overlap with the Council meeting is necessary to provide additional time for the Council and any other interested parties to provide comment, after this proposed action is discussed at the Council meeting. Thus, NMFS is reopening and extending the comment period on the proposed rule through October 1, 2010.

Dated: September 22, 2010.

Eric C. Schwaab,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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