

List of Subjects in 48 CFR Parts 507 and 552**Government procurement.**

1. The authority citation for 48 CFR Parts 507 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. 48 CFR Parts 507 and 552 are amended by the following supplement to Acquisition Circular AC-87-1:

**General Services Administration
Acquisition Regulation Acquisition
Circular AC-87-1, Supplement No. 1**

September 9, 1987.

To: All GSA contracting activities
Subject: Comparison of retirement costs under OMB Circular A-76

1. *Purpose.* This supplement extends the expiration date of General Services Administration Acquisition Regulation Acquisition Circular AC-87-1.

2. *Effective:* September 9, 1987.

3. *Expiration date:* The General Services Administration Acquisition Regulation Acquisition Circular AC-87-1 and this supplement will expire on March 8, 1988, unless cancelled earlier.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 87-21433 Filed 9-16-87; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 651**

[Docket No. 70620-7184]

Northeast Multispecies Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to amend and extend the interim rule implementing the Fishery Management Plan for the Northeast Multispecies Fishery (FMP). Amendment 1 to the FMP, which this rule implements, addresses deficiencies in the interim rule. The intended effect of the rule is to maintain the abundance and viability of the groundfish stocks to support both commercial and recreational fisheries.

EFFECTIVE DATE: October 1, 1987, except for the recordkeeping requirement in § 651.22(f), which has been submitted to the Office of Management and Budget for approval. When approval is received, a notice will be published in

the Federal Register making this section effective.

ADDRESS: Copies of the environmental assessment, supplementary regulatory impact review and regulatory flexibility analysis prepared for Amendment 1 are available from Douglas Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01908.

FOR FURTHER INFORMATION CONTACT: Peter D. Colosi, Jr. (Multispecies Plan Coordinator), 617-281-3600, ext. 252.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council (Council) prepared Amendment 1 to amend and extend the FMP, which was approved by the Secretary of Commerce only until September 30, 1987.

Amendment 1 addresses deficiencies in the FMP that were identified by the Secretary in his decision to approve the FMP conditionally for one year (51 FR 29642, August 20, 1986). The proposed rule for Amendment 1 was published June 23, 1987, at 52 FR 23570 and invited public comment.

Amendment 1 contains ten specific changes and additions to the management system. These are as follows:

1. The December-January exempted fishery for whiting is limited to the exempted fishery area west of 69°00' W. longitude.

2. For the June-November exempted fishery, the species against which the ten percent bycatch of regulated species may be calculated are limited to dogfish, herring, mackerel, ocean pout, red hake, silver hake, and squid.

3. The southern boundary of the regulated mesh area on Georges Bank east of 69°40' W. longitude is extended slightly southward.

4. Dredge gear designed to take scallops may not be used in the Southern New England Closed Area during closure periods.

5. The minimum mesh size for mobile gear nets must extend for at least 75 meshes forward of the terminus of the net.

6. No vessel fishing in or transiting the regulated mesh area may have a net available for immediate use with a mesh smaller than the minimum size specified in the regulations.

7. The dimensions of Closed Area 1 are changed, and the area will be moved to the south and east by regulatory amendment at a later date.

8. Hook-and-line gear is permitted for use in the Southern New England Closed Area, but yellowtail flounder may not be possessed.

9. The December-May exempted fishery program (EFP) for herring and mackerel is eliminated, but mid-water trawling is permitted subject to a permit issued by the Regional Director.

10. Upon recommendation of the Council, and in consultation with the Atlantic States Marine Fisheries Commission, the Regional Director may permit the use of certain selective gear in the northern shrimp fishery in the exclusive economic zone (EEZ) as an alternative to participation in the EFP, or require, by regulatory amendment to the FMP, the use of certain selective gear in the EEZ shrimp fishery.

Comments and Responses

Comments received strongly supported approval of the Amendment.

Written comments were submitted by the Point Judith Fishermen's Cooperative Association, Massachusetts Inshore Draggermen's Association, Maine Fishermen's Cooperative, U.S. Environmental Protection Agency, New England Fishery Management Council, Department of the Interior, Conservation Law Foundation, Arnold Fisheries Co., Levin Marine Supply, Inc., F/V Elizabeth, F/V Kathleen A. Mirarchi, Otonka, Inc., Roger F. Woodman, Jr., & Co., F/V Deb & Tres III, Congressman Gerry Studds, Congressman Don Young, Congresswoman Claudine Schneider, Senator William S. Cohen, Senator George J. Mitchell, Senator Edward M. Kennedy, Senator John F. Kerry, Senator John Chafee, Senator Claiborne Pell, and two individuals.

Comment: Twenty commenters stated that they supported unconditional approval of Amendment 1 as prepared by the Council, because it addressed the problems of conservation and would be supported by the industry.

Response: Amendment 1 is approved as requested.

Comment: Three commenters stated that the measures contained in Amendment 1 were insufficient to meet the objectives of the FMP or to prevent overfishing.

Response: The measures in Amendment 1 are designed to work towards the attainment of FMP objectives. If implementation of the measures in Amendment 1 demonstrates them to be inadequate, the Technical Monitoring Group is designed to recognize this early and recommend action to the Council that will address the problem.

Comment: Three commenters stated that implementing a Secretarial Amendment instead of the Council's Amendment would erode industry confidence and support of management.

Response: A Secretarial Amendment will not be implemented at this time, because Amendment 1 has been approved.

Comment: Three commenters stated that the questions contained in the preamble to the proposed rule were inappropriate, prejudicial and out of context.

Response: Many commenters responded to the questions contained in the preamble and most responses indicated strong support for the measures contained in Amendment 1. This support had a substantial bearing on the decision to approve the Amendment.

Comment: Five commenters stated that the 5.5-inch minimum mesh size for 75 meshes was preferable to the entire net for the near term. It would give dealers and fishermen time to use up current twine.

Response: This measure is part of the approved amendment.

Comment: The Council made several comments of a minor technical or editorial nature.

Response: These comments are addressed in the body of the regulations.

Changes From the Proposed Rule

Sections 651.3(c) and 651.4(a)(2) are changed to omit the inappropriate reference to local law. The Council intended only the stricter of State or Federal regulations to prevail. Also, in § 651.4(a)(2), the reference to conservation measures is changed to management measures to avoid confusion.

A few changes of a technical or editorial nature have been made in this rule as follows:

In § 651.20(a)(1)(ii), degree signs are added to points of latitude and longitude.

In § 651.20(f)(4), the phrase "small mesh" is deleted from the sentence.

References to "FCZ" are changed to "EEZ" throughout the regulations.

Classification

The Regional Director has determined that Amendment 1 as approved is necessary for the conservation and management of northeast multispecies finfish and that it is consistent with the Magnuson Act and other applicable law.

The Administrator of NOAA determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities.

The Council prepared an environmental assessment and the Assistant Administrator for Fisheries found there will be no significant impact on the environment as a result of this rule. Thus, it does not alter the final environmental impact statement of the FMP.

The Assistant Administrator for Fisheries finds for good cause—avoidance of a regulatory hiatus which would be damaging to the fishery resource—that it would be impracticable and contrary to the public interest to delay for 30 days the effective date of the final rule under section 553(d) of the Administrative Procedure Act.

This rule contains information collection requirements subject to the Paperwork Reduction Act. The permit requirements under § 651.4 have been approved by the Office of Management and Budget under OMB Control Number 0648-0097. The exempted fisheries program information requirement in § 651.4(n), and the reporting requirements in § 651.22(f), have been approved under OMB Control Number 0648-0016. The recordkeeping requirement in § 651.22(f) has been submitted to OMB for approval. When approval is received, it will be implemented by notice in the Federal Register.

The Council has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland, Delaware, and North Carolina.

List of Subjects in 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 11, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 651 is revised to read as follows:

PART 651—NORTHEAST MULTISPECIES FISHERY

Subpart A—General Provisions

- | | |
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Subpart B—Management Measures

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| 651.20 | Regulated mesh area and gear limitations. |
| 651.21 | Closed areas. |
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| 651.25 | Gear marking requirements. |

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

Subpart A—General Provisions

§ 651.1 Purpose and scope.

This part implements the Fishery Management Plan for the Northeast Multispecies Fishery, as amended by the New England Fishery Management Council in consultation with the Mid-Atlantic Fishery Management Council. These regulations govern the conservation and management of multispecies finfish.

§ 651.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Areas of custody means any vessels, buildings, vehicles, piers or dock facilities where finfish may be found.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, Washington, DC 20235, or a designee.

Authorized officer means

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Bottom-tending gill net means any gill net, anchored or otherwise, that is fished on or near the bottom in the lower third of the water column.

Butterfish means *Peprilus triacanthus*.

Catch, take, or harvest includes, but is not limited to, any activity which results in killing any fish or bringing any live fish aboard a vessel.

Charter and party boats means vessels carrying recreational fishing parties for a per capita fee or for a charter fee.

Exempted fisheries means those species found in the exempted fisheries program (§ 651.23).

Exclusive economic zone (EEZ) means the zone established by Presidential Proclamation 5030, dated March 10, 1983, and is that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves:

(a) The catching, taking or harvesting of fish;

(b) The attempted catching, taking or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing; including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Herring means Atlantic herring, *Clupea harengus harengus*, or blueback herring, *Alosa aestivalis*.

Land means to begin offloading fish, to offload fish, or to transfer fish to another vessel.

Longline gear means fishing gear which is set horizontally, either anchored, floating, or attached to a vessel, which consists of a main or ground line with three or more gangions and hooks.

Mackerel means Atlantic mackerel, *Scomber scombrus*.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

Mid-Atlantic area means that area west and south of a line commencing at 41°18'16.2" N. latitude, 71°54'28.5" W. longitude and proceeding 142°37'27.25" True to the point of intersection with the outer boundary of the EEZ.

Midwater trawl gear means pelagic trawl gear, no portion of which is operated in contact with the bottom at any time.

Multispecies finfish includes, but is not limited to, the following finfish in the Northeast portion of the Atlantic Ocean EEZ.

Cadus morhua..... Atlantic cod.
Glyptocephalus cynoglossus..... witch flounder.
Hippoglossoides platessoides..... American plaice.

Limanda ferruginea..... yellowtail flounder.
Melanogrammus aeglefinus..... haddock.
Pollachius virens..... pollock.
Pseudopleuronectes americanus..... winter flounder.

Scophthalmus aquosus..... windowpane flounder.
Sebastes marinus..... redfish.
Urophycis tenuis..... white hake.

New England area means that area east and north of a line commencing at 41°18'16.2" N. latitude, 71°54'28.5" W. longitude and proceeding 142°37'27.25" True to the point of intersection with the outer boundary of the EEZ.

Official number means the documentation number issued by the U.S. Coast Guard or the registration number issued by a State or the U.S. Coast Guard for undocumented vessels.

Operator, with respect to any vessel, means the master or other individual aboard and in charge of that vessel.

Owner, with respect to any vessel, means

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Recreational fishing means fishing for finfish which does not result in their barter, trade, or sale.

Recreational fishing vessel means any vessel from which no fishing other than recreational fishing is conducted. Party and charter boats are not considered recreational fishing vessels.

Regional Director means the Regional Director, Northeast Region, NMFS, 14 Elm Street, Federal Building, Gloucester, MA 01930, 617-281-3600, or a designee.

Regulated species means a subset of multispecies finfish which includes

Atlantic cod, witch flounder, American plaice, yellowtail flounder, haddock, pollock, winter flounder, and redfish.

Retain aboard means to fail to return fish to the sea after a reasonable opportunity to sort the catch.

Secretary means the Secretary of Commerce, or a designee.

Squids means *Loligo pealei* or *Illex illecebrosus*.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated by a fishery management plan or preliminary fishery management plan implemented under the Magnuson Act.

Vessel of the United States means:

(a) Any vessel documented under chapter 121 of title 46, United States Code;

(b) Any vessel numbered under chapter 123 of title 46, United States Code, and measuring less than 5 net tons;

(c) Any vessel numbered under chapter 123 of title 46, United States Code, and used exclusively for pleasure; and

(d) Any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.

Whiting means *Merluccius bilinearis*.

§ 651.3 Relationship to other laws.

(a) Fishing for squids, mackerel, and butterfish, which is affected by these rules, also is governed by other domestic rules under 50 CFR Part 655.

(b) Fishing vessel operators will exercise due care in the conduct of fishing activities near submarine cables. Damage to submarine cables resulting from intentional acts or from the failure to exercise due care in the conduct of fishing operations subjects the fishing vessel operator to the criminal penalties prescribed by the Submarine Cable Act (47 U.S.C. 21) which implements the International Convention for the Protection of Submarine Cables. Fishing vessel operators also should be aware that the Submarine Cable Act prohibits fishing operations at a distance of less than one nautical mile from a vessel engaged in laying or repairing a submarine cable; or at a distance of less than one quarter nautical mile from a buoy or buoys intended to mark the position of a cable when being laid or when out of order or broken.

(c) Nothing in these regulations will supercede more restrictive State or local management measures for multispecies finfish.

§ 651.4 Vessel permits.

(a) **General.** (1) Any vessel of the United States fishing for multi-species

finfish, except commercial vessels fishing exclusively within State waters and recreational fishing vessels, must have a permit required by this part aboard the vessel.

(2) Vessel owners or operators who apply for a fishing vessel permit under this section must agree as a condition of the permit that the vessel's fishing, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ and without regard to where such fish or gear are possessed, taken, or landed) will be subject to all the requirements of this part. All such fishing, catch, and gear will remain subject to any applicable State requirements. If a requirement of this part and a management measure required by State law differ, any vessel owner or operator permitted to fish in the EEZ must comply with the more restrictive requirement.

(b) *Application.* (1) An application for a fishing vessel to participate in the multispecies finfish fishery must be submitted and signed by the vessel owner on an appropriate form which may be obtained from the Regional Director. The application should be submitted to the Regional Director at least 2 months prior to the date on which the applicant desires to have the permit made effective to ensure that he will receive the permit on time.

(2) Applicants must provide all of the following information:

(i) The name, mailing address, and telephone number of the applicant and the vessel's master;

(ii) If the vessel owner is a corporation, the officers' and shareholders' names and mailing addresses;

(iii) The name of the vessel;

(iv) The vessel's official number;

(v) The home port and gross tonnage of the vessel;

(vi) The engine horsepower of the vessel;

(vii) The approximate fish-hold capacity of the vessel in pounds;

(viii) The type of fishing gear used by the vessel; and

(ix) The size of the crew, which may be stated in terms of a range.

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional Director will issue a permit within 45 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 21 days following the date of notification, the application will be discarded.

(d) *Surrender.* (1) A permit issued for a vessel may be surrendered by the owner thereof by certified mail addressed to the Regional Director.

(2) The Regional Director will reissue a permit which has been surrendered within 45 days from the date the reissuance was requested.

(e) *Expiration.* A permit expires on December 31 of each year.

(f) *Duration.* A permit is valid until it is voluntarily returned or expires or is revoked, suspended, or modified under 15 CFR Part 904.

(g) *Alteration.* Any permit which has been altered, erased, or mutilated is invalid.

(h) *Replacement.* Replacement permits may be issued. An application for a replacement permit will not be considered a new application.

(i) *Transfer.* Permits issued under this part are not transferable or assignable. A permit is valid only for the vessel for which it is issued.

(j) *Display.* Any permit issued under this part must be carried aboard the fishing vessel at all times. The permit must be displayed for inspection at the request of an authorized officer.

(k) *Suspension and revocation.* Subpart D of 15 CFR Part 904 governs the imposition of sanctions against a permit issued under this part.

(l) *Fees.* No fee is required for any permit under this part.

(m) *Change in application information.* Any change in the information specified in paragraph (b) of this section must be reported to the Regional Director within 15 days of the change. Failure to report a change in information within 15 days of the change invalidates the permit.

(n) *Exempted fisheries program.* Any permit holder may initially request entry into the exempted fisheries program under § 651.22 by telephoning 617-281-4454. The permit holder must give his/her name, vessel name, vessel permit number, the specific exemption requested, the starting date and estimated duration of participation in the program, and the area of operation. The permit holder must have the letter of certification, which will be issued within one week, aboard at all times while engaged in an exempted fishery.

§ 651.5 Recordkeeping and reporting requirements. [Reserved]

§ 651.6 Vessel identification.

(a) *Vessel name.* Each fishing vessel subject to this part over 25 feet in length must display its name on the port and starboard sides of its bow and, as possible, on its stern.

(b) *Official number.* Each fishing vessel subject to this part over 25 feet in length must display its official number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be visible from above.

(c) *Numerals.* Except as provided in paragraph (e) of this section, the official number must be permanently affixed to each vessel subject to this part in contrasting block Arabic numerals at least 18 inches in height for vessels over 65 feet in length, and at least 10 inches in height for vessels over 25 feet in length. The length of a vessel, for purposes of this section, will be that length set forth in U.S. Coast Guard or State records.

(d) *Duties of owner and operator.* The owner and operator of each vessel subject to this part will

(1) Keep the vessel's name and official number clearly legible and in good repair, and

(2) Ensure that no part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from an enforcement vessel or aircraft.

(e) *Nonpermanent markings.* Vessels carrying recreational fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be affixed permanently to the vessel. The nonpermanent markings must be displayed in conformity with the above requirements when the vessel is fishing for multispecies finfish.

§ 651.7 Prohibitions.

(a) It is unlawful for any person owning or operating a vessel issued a permit under § 651.4 to do any of the following:

(1) Land or possess any regulated species which fails to meet the minimum fish sizes specified in § 651.23; and

(2) Fail to affix and maintain permanent markings as required by § 651.6.

(b) It is unlawful for any person to do any of the following:

(1) Use any vessel of the United States (except recreational fishing vessels) for taking, catching, harvesting or landing any regulated species taken from the EEZ unless the vessel has a valid permit issued under this part and the permit is aboard the vessel;

(2) Fish within the areas described in § 651.20(a) with nets smaller than the minimum size specified in § 651.20(b) unless the vessel is certified in an exempted fisheries program established under § 651.22;

(3) Fish within the areas described in § 651.20(a) outside of the exempted fisheries area specified in § 651.22(a) while the vessel is certified to participate in the exempted fisheries program under § 651.22;

(4) Fish in either area specified in § 651.21 during a period in which that area is closed, unless allowed by that section;

(5) Fail to comply with the gear-marking requirements of § 651.25;

(6) Having been signaled by an authorized officer, dump on board or into the water the contents of the net before the authorized officer has permitted the net to be emptied;

(7) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, land, or export any regulated species taken, retained, or imported in violation of the Magnuson Act, this part, or any other regulation under the Magnuson Act;

(8) Import regulated species which are smaller than the minimum sizes specified in § 651.23;

(9) Make any false statement in connection with an application under § 651.4.

(10) Make any false statement, oral or written, to an authorized officer, concerning the taking, catching, harvest, landing, purchase, sale, possession, or transfer of any regulated species;

(11) Refuse to permit an authorized officer to board a fishing vessel or to enter an area of custody, subject to such person's control, for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit under the Magnuson Act;

(12) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (b)(11) of this section;

(13) Resist a lawful arrest for any act prohibited by this part;

(14) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, with the knowledge that such other person has committed any act prohibited by this part;

(15) Interfere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcement this part;

(16) Fail to comply immediately with enforcement and boarding procedures specified in § 651.8;

(17) Transfer directly or indirectly, or attempt to transfer, to any vessel not having a permit under this part any U.S.-harvested, regulated species; or

(18) Violate any provisions of the exempted fisheries program specified in § 651.22.

(c) It is unlawful to violate any other provision of this part, the Magnuson Act, or any regulations or permit issued under the Magnuson Act.

(d) *Presumption.* The possession for sale of regulated species which do not meet the minimum sizes specified in § 651.23 for sale will be *prima facie* evidence that such regulated species were taken or imported in violation of these regulations. Evidence that such fish were harvested by a vessel not holding a permit under this part and fishing exclusively within State waters will be sufficient to rebut the presumption. This presumption does not apply to fish being sorted on deck.

§ 651.8 Facilitation of enforcement.

(a) *General.* The operator of, or any other person aboard any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is a preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to allow an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or

radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must

(1) Guard Channel 16, VHF-FM, if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and,

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following additional signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone.

Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (-.-)¹ is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (-.-.-.-.-) means "You should proceed at slow speed, a boat is coming to you." The signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (...-.-.-) means "you should stop or heave to; I am going to board you."

(4) "L" (-.-) means "You should stop your vessel instantly."

§ 651.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Magnuson Act, 15 CFR

¹ Period (.) means a short flash of light; dash (-) means a long flash of light.

Part 904 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 651.20 Regulated mesh area and gear limitations.

(a) The mesh sizes stated in paragraphs (b) and (c) of this section will apply to all vessels fishing within the area defined by accepted boundary limits and by straight lines (rhumb lines) connecting the following points in the order stated:

(1) *Gulf of Maine regulated mesh area* (Figure 1):

(i) Bounded on the east by the U.S.-Canada maritime boundary (point L to point M to point F);

(ii) Bounded on the south by a line from 42°20' N. latitude, 67°18.4' W. longitude (point F) to 42°20' N. latitude, 70°00' W. longitude (point E) then southward to the intersection of 70°00' W. longitude with the territorial sea (point D) then following the seaward limit of the territorial sea northward along the coasts of Massachusetts, New Hampshire, and Maine to the U.S.-Canada maritime boundary (point L).

(2) *Georges Bank regulated mesh area* (Figure 1):

Bounded by straight lines connecting the following points:

Point	Latitude, longitude	Loran C bearings
Z	40°18.7' N., 69°40.0' W.	9960-Y-43400 and 69°40' W.
A	40°53.5' N., 69°40.0' W.	
B	41°35.0' N., 69°40.0' W.	
C	41°35.0' N. and the territorial sea.	
D	Northward along the territorial sea to its intersection with 70°00.0' W.	
E	42°20.0' N., 70°00.0' W.	
F	42°20.0' N., 67°18.4' W. (on the U.S.-Canada maritime boundary).	
G	41°18.6' N., 66°24.8' W.	5930-Y-30750 and the U.S.-Canada maritime boundary
N1	40°55.5' N., 66°38.0' W.	5930-Y-30750 and 9960-Y-43500
N2	40°45.5' N., 68°00.0' W.	9960-Y-43500 and 68°00' W.
N3	40°37.0' N., 68°00.0' W.	9960-Y-43450 and 68°00' W.
N4	40°30.5' N., 69°00.0' W.	9960-Y-43450 and 69°00' W.
N5	40°22.7' N., 69°00.0' W.	9960-Y-43400 and 69°00' W.
Z	40°18.7' N., 69°40.0' W.	9960-Y-43400 and 69°40' W.

Note: Loran lines are included for the convenience of fishermen. They are not to be relied upon for determining position for enforcement purposes.

(b) *Trawl nets*—(1) *Diamond mesh*. Except as provided for in §§ 651.20(b)(3), 651.20(d), and 651.22, the minimum mesh size for any trawl net, including midwater trawls, or Scottish seine used by a vessel fishing in the mesh areas described in paragraphs

(a)(1) and (a) (2) of this section is 5½ inches for at least 75 continuous meshes forward of the terminus of the net (Figure 4).

(2) *Square mesh*. Vessels may use square mesh which the Regional Director has certified to be equivalent in terms of haddock escapement to the mesh sizes specified in paragraph (b)(1) of this section.

(3) *Selective shrimp gear*. Upon the recommendation of the Council, the Regional Director, after consultation with the Atlantic States Marine Fisheries Commission, may permit the use of gear with smaller mesh than that required in § 651.20(b)(1) for vessels in the shrimp fishery which use gear that has been demonstrated to allow adequate escapement of juvenile regulated species.

(c) *Gill nets*. (1) The minimum mesh size for any bottom-tending gill net used by a vessel fishing in the mesh areas described in paragraph (a) of this section will be the same as that specified under paragraph (b) of this section.

(2) In other portions of the New England area not subject to minimum mesh size restrictions under paragraph (b) of this section, the mesh in bottom-tending gill nets must be the same during the months of November through February as that in effect under paragraph (b) of this section for the Georges Bank regulated mesh area, as defined in paragraph (a)(2) of this section.

(d) *Midwater gear exception*. (1) For the Georges Bank regulated mesh area, fishing for Atlantic herring or blueback herring, mackerel, and squids may take place throughout the fishing year with mesh sizes less than the regulated size, provided that:

- (i) Midwater trawl gear is used exclusively;
- (ii) The vessel deploying midwater gear is permitted by the Regional Director; and
- (iii) The bycatch of regulated species does not exceed one percent by weight of herrings, mackerel, and squids on board the vessel.

(2) For the Gulf of Maine regulated mesh area, fishing for herring and mackerel may take place from December through May with mesh sizes less than the regulated size, provided that the requirements of paragraphs (d)(1) (i) and (ii) of this section are met and that the bycatch of regulated species does not exceed one percent by weight of herrings and mackerel on board the vessel.

(e) *Mesh measurements*. (1) Mesh sizes are measured by a wedge-shaped gauge having a taper of two centimeters

in eight centimeters and a thickness of 2.3 millimeters, inserted into the meshes under a pressure or pull of five kilograms. The mesh size will be the average of the measurements of any series of 20 consecutive meshes. The mesh in the regulated portion of the net will be measured at least five meshes away from the lacings, running parallel to the long axis of the net.

(2) A fishing vessel may not use any means or device which would obstruct the meshes on the top of the regulated portion of a trawl net, except that one net strengthener may be attached (only at its outside edges) to the top of the regulated portion of a trawl net, if such net strengthener consists of mesh material similar to the material of the regulated portion of the net and has a mesh size of the least twice the authorized minimum mesh size. "Top of the regulated portion of the net" means the 50 percent of the entire regulated portion of the net which (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the regulated portion of the net were laid flat on the ocean floor.

(f) Except as provided in paragraph (d) of this section, no vessel issued a permit under § 651.4 may have available for immediate use any net not meeting the requirements specified in paragraphs (b) and (c) of this section, or mesh that is rigged in a manner which is inconsistent with § 651.20(e)(2), while in the areas described in paragraph (a) of this section. A net that conforms to one of the four following specifications and which cannot be shown to have been in recent use is considered to be "not available for immediate use":

- (1) Nets stored below deck; or
- (2) Nets stowed and lashed down on deck; or
- (3) Nets which are on reels and are covered and secured; or
- (4) Nets on vessels which have the towing wires detached from the gear.

§ 651.21 Closed areas.

(a) *Georgia Bank*. No person may fish within the following areas during the months of February through May.

(1) An area known as Closed Area I (Figure 2) bounded by six straight lines (rhumb lines) connecting the following points in the order stated:

Point	Latitude	Longitude
a	40°53' N.	68°53' W.
b	41°35' N.	68°30' W.
c	41°50' N.	68°45' W.
d	41°50' N.	69°00' W.
e	41°30' N.	69°00' W.
f	41°30' N.	69°23' W.; and
a	41°53' N.	68°53' W.

(2) An area known as Closed Area II (Figure 2) bounded by three straight lines connecting the following points in the order stated:

Point	Latitude	Longitude
g	41°15' N.	67°00' W.;
h	41°15' N.	66°22.4' W. (the U.S.-Canada Maritime Boundary);
i	41°59.1' N.	67°00' W. (the U.S.-Canada Maritime Boundary);
g	41°15' N.	67°00' W.

(3) Exceptions. Paragraphs (a) (1) and (2) of this section do not apply.
 (i) To longline vessels that fish with hooks having a gape of not less than 1.18 inches (30 mm), Closed Area I, only;
 (ii) To pot gear designed and used to take lobsters; or
 (iii) To dredges designed and used to take scallops.
 (4) The Regional Director may open either of both Closed Areas I and II prior to the scheduled opening in May by notice in the Federal Register, if he determines that concentrations of spawning fish are no longer in the area(s).

(b) *Southern New England/Mid-Atlantic Region.* (1) Except as provided in paragraph (b)(3) of this section, during a closure, no person may fish within the area bounded by straight lines (rhumb lines) connecting the following points in the order stated (Figure 3):

Point	Latitude	Longitude
A	40°33.5' N.	69°40' W.;
N	40°26.5' N.	70°40' W.;
O	40°40.5' N.	70°40' W.;
P	40°30' N.	72°00' W.;
Q	40°17.8' N.	72°00' W.;
R	40°15.5' N.	72°20' W.;
S	40°39.0' N.	72°20' W.;
T	40°42.0' N.	72°00' W.;
U	40°48.2' N.	72°00' W.;
V	41°00' N.	70°49.5' W.;
W	41°00' N.	70°30' W.;
X	40°50' N.	70°30' W.;
Y	40°50' N.	69°40' W. and
A	40°33.5' N.	69°40' W.

(2) The area defined in paragraph (b)(1) of this section will be regulated as follows:

(i) The portion of the area east of 71°30' W. longitude will close on March 1 each year and the portion west of 71°30' W. longitude will close on April 1 each year.

(iii) The entire area will be reopened at 2400 hours on May 31 of each year, or at an earlier date after May 1 by notice in the Federal Register, when the Regional Director, after consultation with Council, determines that the closure has achieved the appropriate spawning level for yellowtail and winter flounder.

(3) Exceptions.

(i) Paragraph (b)(1) of this section does not apply
 (A) To pot gear designed and used to take lobsters;
 (B) To dredge gear designed and used to take ocean quahogs or surf clams; and
 (C) Hook-and-line gear; however, the possession of yellowtail flounder by persons or vessels fishing with hook and line gear within this area is prohibited.
 (ii) In the Southern New England Closed Area described in § 651.21(b), fishing with midwater trawl gear may be permitted by the Regional Director. Any person intending to use midwater trawl nets in the area described in paragraph (b) of this section must notify the Regional Director in writing 30 days prior to the date on which the nets will be used. The Regional Director will issue a letter certifying the use of such nets. Fishing in these areas with midwater trawl nets may not commence without a letter of certification carried aboard the vessel. A vessel conducting such fishing may not retain aboard or land any regulated species.

§ 651.22 Exempted fishery program.

(a) *General.* The Regional Director will establish and implement an exempted fishery program to allow fishing vessels to engage in small mesh fisheries for species which require the use of mesh smaller than the size specified in § 651.20(b).

(1) Exempted fishing may be conducted shoreward of the area bounded by the straight lines (rhumb lines) connecting the following points in the order stated (Figure 1):

Point	Latitude	Longitude
C	41°35' N. and the territorial sea;	
B	41°35.5' N.	69°40' W.;
H	42°49.5' N.	69°40' W.;
I	43°12' N.	69°00' W.;

Point	Latitude	Longitude
J	43°41' N.	68°00' W.;
K	43°58' N.	67°22' W. (the U.S.-Canada maritime Boundary); and
L	Northward along the irregular U.S.-Canada maritime boundary to the territorial sea.	

(2) The eastern boundary of the December-January combined whiting and shrimp exempted fishery is 69°00' W. longitude (Figure 1).

(b) *Entry.* (1) Any person owning or operating a vessel issued a valid Federal multispecies finfish permit may apply to fish under the exempted fisheries program by following the procedures set forth in § 651.4(n).

(2) The period of participation must be for at least 7 days, but not longer than 30 days. There is no limit on the number of times a vessel can apply to participate in the exempted fisheries program.

(c) *Certification.* (1) The Regional Director will certify in writing the entry of the applicant into the exempted fisheries program. Entry may be denied to an applicant based on the applicant's violation of the Magnuson Act, if the applicant has received a notice of violation and assessment concerning the violation.

(2) Entry of the applicant into the exempted fisheries program cannot occur until the applicant receives written certification from the Regional Director.

(d) *Commencement of fishing.* Fishing under the exempted fisheries program may begin after the applicant has received the certification from the Regional Director provided that this letter is retained aboard the vessel.

(e) *Limitations.* (1) During the period of participation in the exempted fisheries program, the vessel may not be employed to fish in the regulated mesh areas outside the area specified in paragraph (a) of this section. A vessel may not land regulated species in excess of the percentages specified in paragraph (e)(2) of this section over the period of participation in the program.

(2) Participation in the exempted fisheries program is subject to seasonal limitations, exempted species, and maximum regulated species percentage restrictions as follows:

Period	Target species	Comment
June through November	Dogfish, herring, mackerel, red hake, silver hake, squid, and ocean pout.	Regulated species may not exceed 10% of the total landings of dogfish, herring, mackerel, red hake, silver hake, squid, and ocean pout during the reporting period.

Period	Target species	Comment
December through January	Whiting	Regulated species may not exceed 10% of the total landings of whiting and shrimp during the reporting period; the fishery will be monitored by at-sea sampling. Regulated species may not exceed 10% of the total landings of shrimp during the reporting period.
December through May or as specified by ASFMC ¹ .	Shrimp	

¹ The Northern Shrimp Section of the Atlantic States Marine Fisheries Commission is responsible for the management of northern shrimp. The Section has designated a regulatory period from December through May within which it sets the annual fishing season for northern shrimp. The Section has the authority to adjust the regulatory period or add additional measures appropriate for the conservation of northern shrimp. The Section will consult with the New England Fishery Management Council regarding recommendations to adjust the regulatory period, with respect to the management of multispecies.

(3) Adjustments in the seasons, species or percentages of the exempted fisheries will be accomplished by regulatory amendment.

(f) *Recordkeeping and reporting.* The reporting period for the exempted fisheries will be 30 calendar days. Within one week from the expiration of the reporting period or withdrawal from the program under paragraph (g) of this section, or receipt of a notice of revocation under paragraph (h) of this section, the participant must mail or deliver to the Regional Director a NOAA Form 88-153 "Fishing Vessel Record", or business records that provide equivalent information, listing in pounds all fish landed during participation in the exempted fishery program on a trip-by-trip basis, or documentation that no fishing occurred. If no fish were landed, the participant must submit a document indicating no landings. The participant must provide, upon request of the Regional Director or his designee, trip landing records, kept in the normal course of business, that are certified as accurate by both the buyer and the seller for one year after his participation in the exempted fishery program to confirm the information required in NOAA Form 88-153. Buyer certification may be satisfied by the buyer's signature on the trip record that is retained by the seller (vessel operator). The responsible fishing vessel owner or operator may alternatively maintain accurate trip-by-trip landings data on a NOAA Form 88-153 provided on request from the Regional Director.

(g) *Expiration or withdrawal.* Participation in the program expires at the end of the participation period under § 651.4(n), or when the owner's or vessel's name changes, or when a participant who has been duly operating

in the program for at least 7 days notifies the Regional Director of his/her intent to withdraw from the program. Such withdrawal will be effective when the participant receives notice of the withdrawal from the Regional Director.

(h) *Revocation.* The Regional Director may end the participation of any applicant in the exempted fisheries program upon issuance of a notice of violation and assessment for violating any provisions of the program or the Magnuson Act. Notification will be in writing and will take effect upon receipt by the participant.

§ 651.23 Minimum fish size.

(a) The minimum sizes (total length) for certain regulated species follow:

(1) Commercial fishing vessels.

	Year 1 (inches)	Year 2 and beyond (inches)
Beyond Cod, haddock and pollock	17	19
Witch flounder (gray sole)	14	14
Yellowtail flounder	12	12
American plaice (dab)	12	12
Winter flounder (blackback)	11	11

(2) Recreational fishing vessels, charter and party boats, and individuals.

- (i) Effective Year 1—Cod and haddock: 15 inches;
- (ii) Effective Years 2 and 3—Cod and haddock: 17 inches;
- (iii) Effective Year 4 and later—Cod and haddock: 19 inches.

(3) For purposes of paragraphs (a)(1) and (2) of this section, Year 1 is September 15, 1986, through September 30, 1987; Year 2 is October 1, 1987, through September 30, 1988; and Years 3 and later begin on October 1, 1988, and each year thereafter.

(b) The minimum lengths allowed by paragraph (a) of this section are

measured on a straight line from the tip of the snout to the end of the tail.

§ 651.24 Experimental fishing.

The Secretary may authorize experimental fishing, which is not otherwise authorized by these regulations, for the acquisition of information.

§ 651.25 Gear marking requirements.

(a) Bottom-tending fixed gear (gill nets and longlines) fishing for multispecies finfish must have the name of the owner or vessel, or the official number of that vessel, permanently affixed to any bouys, gill nets, or longlines.

(b) Bottom-tending gill net or longline gear must be marked so that the westernmost end (measuring the half compass circle from magnetic south through west to and including north) of the gear displays a standard 12-inch tetrahedral corner radar reflector and a pennant positioned on a staff of at least 6 feet above the buoy. The eastern most end (meaning the half compass circle from magnetic north through east to and including south) of the gear must display only the standard 12-inch tetrahedral radar reflector positioned in the same way.

(c) The maximum length of continuous gill nets must not exceed 6,600 feet between the end bouys.

(d) In the Gulf of Maine regulated mesh area specified in § 651.20, sets of gill net gear which are of an irregular pattern or which deviate more than 30 degrees from the original course of the set will be marked at the extremity of the deviation with an additional marker which must display two or more visible streamers and may either be attached to or independent of the gear.

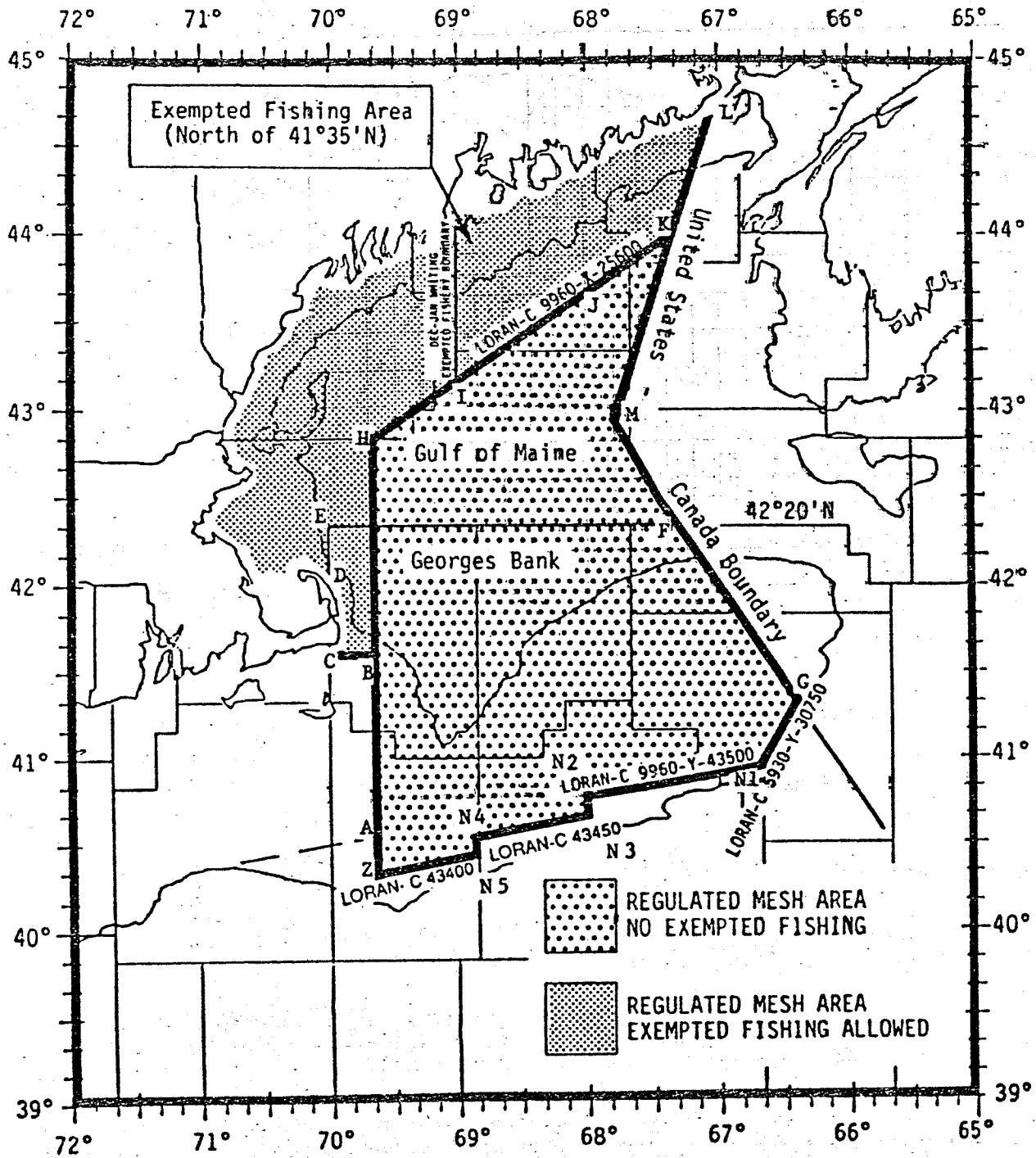


Figure 1. New England regulated mesh areas and areas of exempted and non-exempted fishing. See text for details. These areas are defined in §651.20(a). Loran lines are included for the convenience of fishermen. They are not to be relied upon for determining position for enforcement purposes.

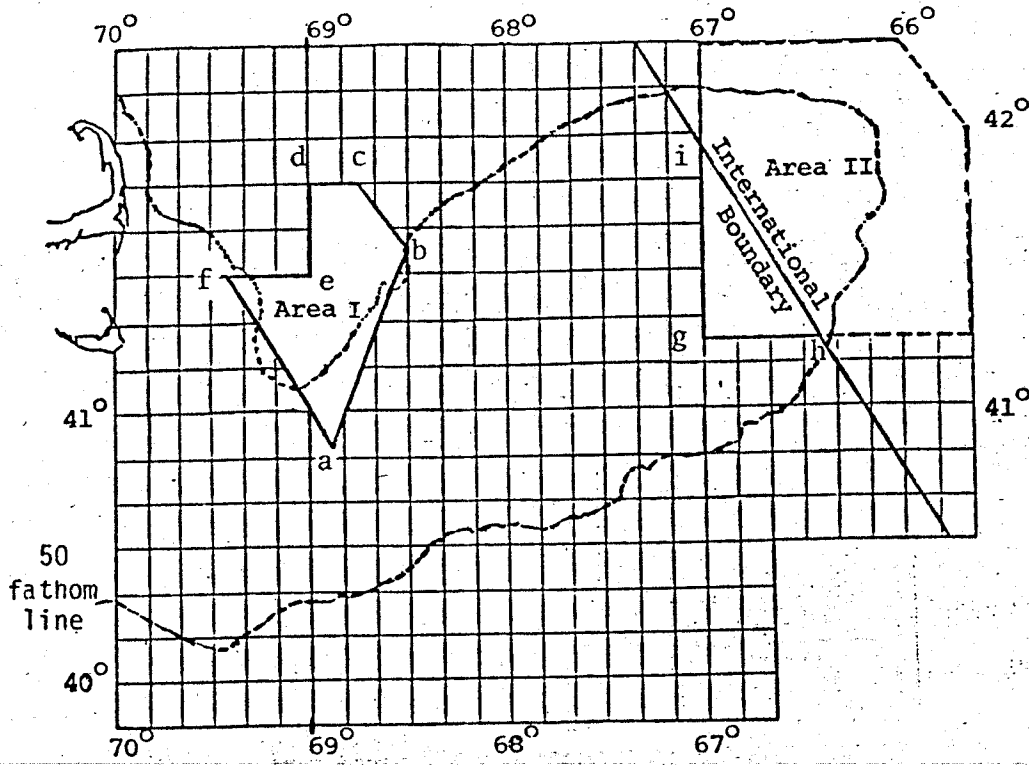


Figure 2. Georges Bank haddock spawning Closed Areas I and II.

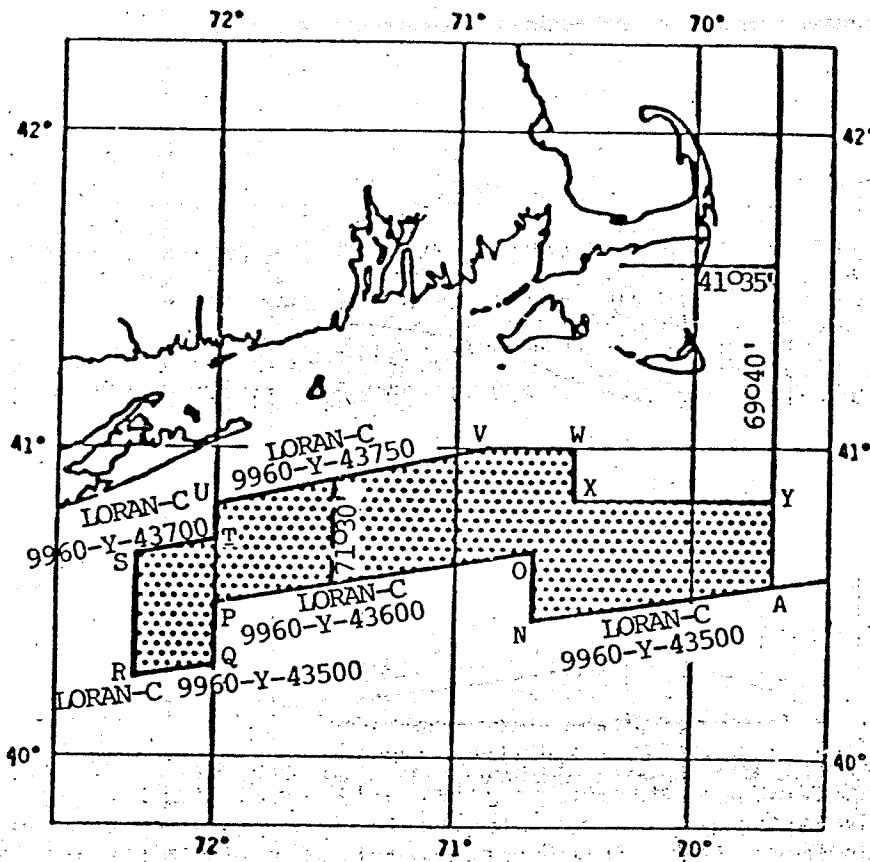


Figure 3. Southern New England/Middle Atlantic region closure. Coordinates listed in §651.21(b).

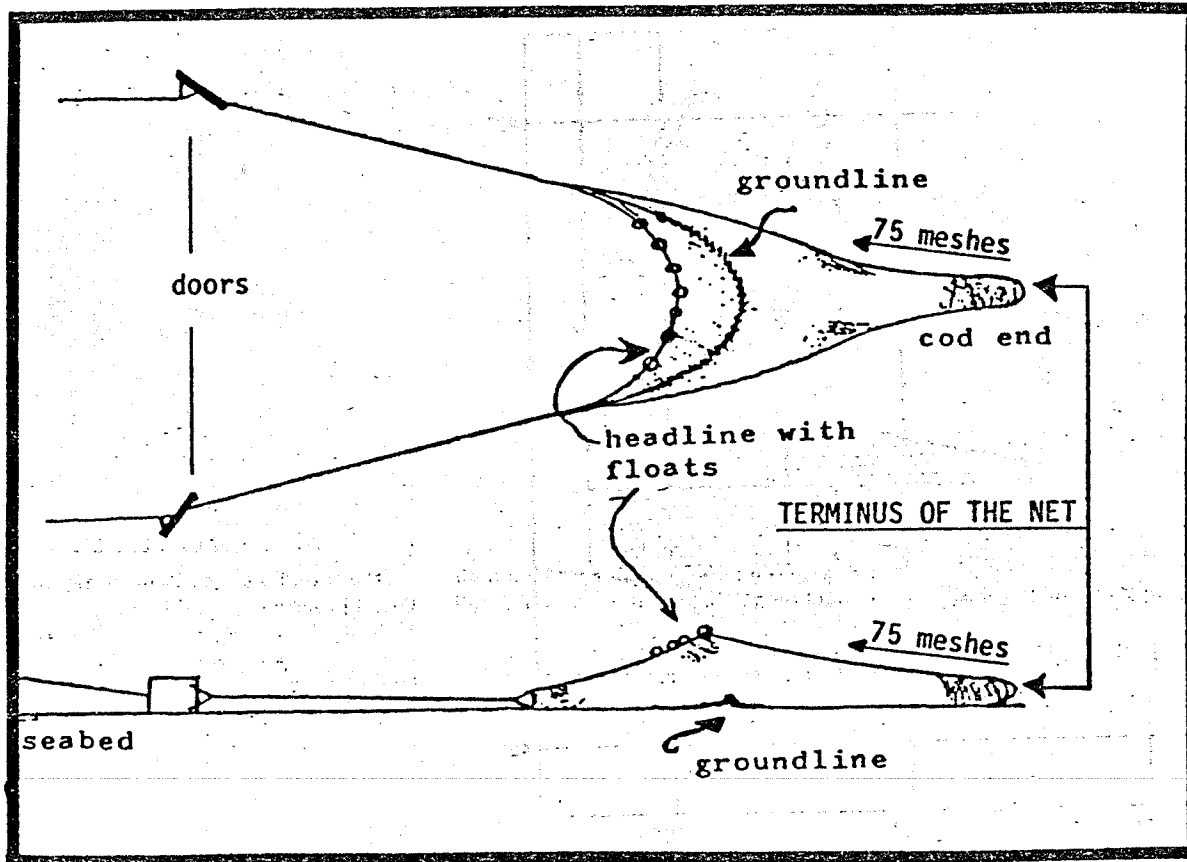


FIGURE 4 Diagram of a bottom trawl net showing the terminus of the net

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