



# Federal Register

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**Monday,  
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## **Part VI**

## **Department of Commerce**

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**National Oceanic and Atmospheric  
Administration**

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**50 CFR Part 648**

**Magnuson-Stevens Fishery Conservation  
and Management Act Provisions; Fisheries  
of the Northeastern United States;  
Northeast Multispecies Fishery; Interim  
Final Rule**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 020409080-2080-01; I.D. 032602A]

RIN 0648-AP78

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery**

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

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** NMFS issues this interim final rule to implement restrictions under the Northeast Multispecies Fishery Management Plan (FMP). This interim final rule reduces overfishing on Northeast groundfish stocks through reductions in fishing mortality achieved from measures that include temporal extension of existing area closures, new area closures, new gear restrictions, restrictions on days-at-sea (DAS) usage, and more restrictive recreational fishing measures. The measures reduce overfishing and provide substantive protection for Gulf of Maine (GOM) cod, as well as several other groundfish stocks in the Northeast, while NMFS and the New England Fishery Management Council (Council) develop a comprehensive amendment to the FMP to bring it into compliance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and all other applicable law.

**DATES:** Effective from May 1, 2002, through July 31, 2002, except for §§ 648.80(j)(3)(i) and (iii) and 648.89(i)(1) which are effective May 15, 2002, through July 31, 2002. Comments must be received no later than 5 p.m., local time on May 29, 2002.

**ADDRESSES:** Written comments should be sent to, and copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) supporting this action may be obtained from, Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on the Interim Final Rule for Groundfish." Comments also may be sent via facsimile (fax) to (978) 281-

9135. Comments will not be accepted if submitted via e-mail or Internet.

**FOR FURTHER INFORMATION CONTACT:**

Thomas Warren, Fishery Policy Analyst, phone: 978-281-9347, fax: 978-281-9135; e-mail: [thomas.warren@noaa.gov](mailto:thomas.warren@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 28, 2001, a decision was rendered by the U.S. District Court for the District of Columbia (Court) on a lawsuit brought by the Conservation Law Foundation, Center for Marine Conservation, National Audubon Society and Natural Resources Defense Council against NMFS (*Conservation Law Foundation, et al., v. Evans*, Case No. 00CVO1134, (D.D.C., December 28, 2001)). The lawsuit alleged that Framework Adjustment 33 to the FMP violated the overfishing, rebuilding and bycatch provisions of the Magnuson-Stevens Act (18 U.S.C. 1801, *et seq.*), as amended by the Sustainable Fisheries Act (SFA), and the Court granted plaintiffs' Motion for Summary Judgment on all counts. The Court did not impose a remedy, but instead asked the parties to the lawsuit to propose remedies consistent with the Court's findings. The Court specifically found that Framework 33 failed to meet the FMP's Amendment 9 and SFA overfishing and rebuilding targets. Amendment 9 established overfishing and rebuilding objectives to meet SFA requirements. Amendment 9, however, did not implement or analyze any specific measures necessary to meet the new overfishing and rebuilding objectives. Framework 33, which was developed after Amendment 9, was an annual adjustment required by Amendment 7 to meet Amendment 7 targets. In developing Framework 33, the Council chose measures to meet Amendment 7 (pre-SFA) objectives, rather than Amendment 9 objectives because, although Amendment 9 contained overfishing definitions and control rules, it did not specify a rebuilding program or analyze the measures necessary to implement a rebuilding program consistent with SFA requirements. The Court found that Framework 33 should have implemented measures to meet Amendment 9/SFA overfishing criteria and rebuilding objectives, rather than those of Amendment 7. Further, the Court found that Amendment 9 and Framework 33 violated SFA because they did not include a "standardized bycatch reporting methodology" and did not adequately justify the lack of new measures to minimize bycatch to the extent practicable.

On March 1, 2002, NMFS, at the request of the Court, proposed a measure to bring the FMP into full compliance with the SFA, the Magnuson-Stevens Act and all other applicable law as quickly as possible. That proposed measure would have resulted in a series of three actions over the next year and a half. Plaintiffs and the intervenors in the case also proposed remedies to the Court. From April 5-9, 2002, plaintiffs, defendants and intervenors engaged in Court-assisted mediation to try to agree upon mutually acceptable short-term and long-term solutions to present to the Court as a possible settlement. Although these discussions ended with no settlement, several of the parties continued mediation and filed with the Court a Settlement Agreement Among Certain Parties (Settlement Agreement) on April 16, 2002. In addition to NMFS, the parties signing the agreement include the Conservation Law Foundation, which is one of the plaintiff conservation groups, all four state intervenors, and two of three industry intervenors. This interim final rule implements the short-term measures contained in the Settlement Agreement filed with the Court. Additional interim measures, which will be the subject of a future proposed rule, are to be implemented on August 1, 2002, at the expiration of this interim action. To come into full compliance with the requirements of the Magnuson-Stevens Act, as amended by the SFA, additional reductions in fishing mortality will be necessary for many of the groundfish stocks managed under the FMP. The full extent of all of these requirements will be met through Amendment 13, which will implement rebuilding plans for several groundfish stocks and address capacity issues in the fishery. Amendment 13 is under development by NMFS and the Council on an accelerated schedule and will be implemented by August 22, 2003.

The first Secretarial interim rule is somewhat less restrictive on certain segments of the industry than the earlier proposed interim rule, most notably, in that it removes the 2:1 DAS usage requirement, the minimum 24 hour DAS counting requirement, and the closure of the Western Gulf of Maine (WGOM) Area Closure to recreational fishers. The second Secretarial interim rule proposal (to be implemented on August 1, 2002) specifies a new suite of measures that were not contemplated in the earlier proposal that have differential impacts on the industry. NMFS consented to the Settlement Agreement, notwithstanding the different impacts compared to the

earlier proposal, based on its determination that reaching a broad consensus with industry groups, state managers and one of the plaintiff conservation groups ultimately would serve the industry and the resource better than a proposal without such a consensus. Controversial new and more restrictive measures supported by a broad consensus of industry and conservation interests are more likely to be complied with than measures lacking such consensus. In addition, NMFS determined that consenting to a Settlement Agreement with most of the parties to the litigation enhances the likelihood that the Court will adopt such an agreement thereby ensuring that the agency retains control on how and when to implement remedial measures consistent with applicable law. The measures called for in the Settlement Agreement reduce overfishing on key groundfish stocks sufficiently in the short-term to provide NMFS and the Council, adequate opportunity to develop and implement, through the full public process, long-term measures to rebuild these stocks consistent with the Magnuson-Stevens Act and other applicable law.

This interim rule is to be promulgated, as contemplated by the earlier proposal, under the authority of section 304(e), consistent with section 305(c), of the Magnuson-Stevens Act, which allows for interim measures to reduce overfishing until an amendment to stop overfishing and rebuild fish stocks is implemented. Such interim measures do not, by themselves, have to stop overfishing. Section 305(c)(1) of the Magnuson-Stevens Act states that, if the Secretary finds that an emergency or overfishing exists, or that interim measures are needed to reduce overfishing for any fishery, the Secretary may promulgate emergency regulations or interim measures necessary to address the emergency or overfishing. For the reasons noted above, the Secretary has determined that several stocks of Northeast groundfish are being overfished. This action will implement Secretarial interim measures to quickly and significantly reduce overfishing on GOM cod, as well as other groundfish stocks, while NMFS and the Council complete Amendment 13. Given the benefits from significant reductions in fishing mortality on GOM cod and other groundfish stocks that will result from this interim final rule and the additional interim measures to be implemented on August 1, 2002; and the improving status of the stocks; delaying Amendment 13 is not expected to jeopardize the ability of the

multispecies complex to meet rebuilding objectives.

### Management Measures

The following management measures are implemented through this interim final rule. Existing measures that are not specifically changed or modified by this interim final rule will remain status quo, including the GOM cod 400-lb (181.4-kg) per day/4,000-lb (1,814-kg) per trip landing limit.

This interim action divides the GOM/GB Regulated Mesh Area (RMA) into two areas: The GOM RMA, which is the area north of the GOM cod exemption line currently used to define the divide between the GOM cod and GB cod trip limit allowances; and the GB RMA, which is that part of the GOM/GB RMA that lies south of the GOM cod exemption line. Specific management measures may also apply, depending on the area fished.

### DAS Counting

To make DAS usage more uniform among various sectors of the fishery, the first day of a fishing trip that lasts longer than 3 hours will be counted as a minimum of 15 hours on the DAS clock. Trips of 3 hours or less will be counted as actual time, to account for aborted trips due to bad weather, breakdowns, etc. Trips greater than 15 hours would be counted as actual time. For example, if a vessel calls in to the multispecies DAS program at 6 a.m. to begin a trip, and calls out of the DAS program at 4 p.m. that same day to end its trip, the vessel will be charged a minimum of 15 hours, rather than actual time (in this case, 10 hours). This measure currently applies only to gillnet vessels that have declared into the Day gillnet category when fishing under a multispecies DAS. This interim action extends the measure to all gear sectors.

### Limitation on DAS Use

Any vessel fishing under a multispecies DAS during May-July is allowed to use no more than 25 percent of its allocated DAS during that period. For example, a vessel with a multispecies Fleet DAS allocation fishing in the GOM RMA during May-July may use a maximum of 22 allocated multispecies DAS (88 DAS x 0.25). (Because carry-over DAS are not part of a vessels allocated DAS, carry-over DAS may not be used when determining the 25 percent DAS usage allowed for the May-July period.) This effort control measure is intended to remove fishing effort from periods when cod landings are traditionally at their highest for both GOM and GB cod. This portion of the alternative is summarized in Table 1.

TABLE 1.—DAS COUNTING SCHEME DURING MAY THROUGH JULY

ALL AREAS DAS Counting—all vessels	
From 0 to 3 h .....	Counted as actual time.
From > 3 to 15 h .....	Counted as 15 h.
Greater than 15 h .....	Counted as actual time.
DAS use restriction ...	Limited to 25 percent of annual DAS allocation.

### Prohibition on Front-Loading the DAS Clock

Existing regulations require that, at the end of a vessel's trip, upon its return to port, the vessel owner or owner's representative must call NMFS to notify NMFS that the trip has ended, thus ending a DAS. However, there is no restriction on when a vessel can start its clock. Consequently, some vessel owners start their DAS clock well in advance of the actual departure of the vessel, a practice known as "front-loading." Front-loading allows a vessel to run the clock for as many as 10 days prior to departing on a trip, essentially allowing a vessel to catch 10-days worth of GOM cod, the maximum trip limit, in 1 day of fishing. The current practice is not consistent with the intent of the GOM cod rebuilding program and makes the trip limit less effective at reducing F. In addition, the provision creates inequities between fishing vessels, since a number of vessels currently record their DAS through a vessel monitoring system (VMS), used voluntarily or, in some cases, as required by a fishery management plan for another fishery.

While other provisions of this interim action may discourage front-loading of the DAS clock (specifically, the 25-percent DAS use restriction), this measure would explicitly prohibit the practice of front-loading. Under this measure, a vessel owner or authorized representative must notify NMFS no earlier than 1 hour prior to the vessel leaving port to fish under the multispecies DAS program. A DAS begins once the call has been received and a confirmation number is given. This measure applies in all management areas.

### Closed Area Additions/Modifications

This action implements additional seasonal and year-round area closures to ensure that areas with traditionally high catches of cod are further protected. Specifically, this action continues, in its current configuration, the closure of the WGOM Area Closure beyond the scheduled May 1, 2002, reopening date.

This action also expands Rolling Closure Area III by closing area blocks 124 and 125 for the month of May, and expands Rolling Closure Area IV by closing area blocks 132 and 133 for the month of June.

Additionally, the seasonal area closure known as Cashes Ledge Area Closure, in its current configuration, will be closed for the duration of this interim final rule. Exemptions to the current rolling closure areas remain the same for the expanded rolling closures implemented by this interim final rule; that is, all vessels will be prohibited from fishing in Rolling Closure Areas III and IV, unless the vessel is fishing with or using exempted gear, as defined in § 648.81(t)(2), excluding pelagic gillnet gear capable of catching multispecies, and except for vessels fishing with a single pelagic gillnet. In addition, recreational vessels are exempt, as is the use of scallop dredge gear, when a vessel is fishing under a scallop DAS or when it is fishing in the Scallop Dredge Fishery Exemption Area, as described in § 648.80(j)(11), provided the vessel does not retain any regulated multispecies during a trip, or on any part of a trip. Also, vessels are exempt from the monthly closure areas when fishing in the Raised Footrope Trawl Exempted Whiting Fishery, as specified in § 648.80(j)(15). All of the exemptions listed above apply to the WGOM and Cashes Ledge Area Closures, with the following exceptions: Vessels are prohibited from fishing with scallop dredge gear or fishing in the Raised Footrope Trawl Exempted Whiting Fishery.

All other closure areas are unchanged. The WGOM and Cashes Ledge Area Closures and the additional GOM seasonal closures included under this action have been selected as times/areas with high cod landings that, when closed, will contribute to a significant reduction in cod mortality. Charts of the new and existing closure areas are available from the Regional Administrator upon request (*see ADDRESSES*).

#### Gear Restrictions

Under this interim final rule, beginning May 15, 2002, vessels using trawls (other than midwater trawls) and fishing any part of a multispecies DAS trip in the GOM RMA will be required

to fish with a minimum 6.5-inch (16.5-cm) diamond or square mesh codend. This requirement applies only to the codend of the net; the minimum mesh-size for the remaining portion of the net is unchanged, i.e., 6.0-inch (15.24-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh, or any combination thereof, throughout the remaining portion of the net. Trawl vessels that currently fish with 6.5 inch (16.5-cm) square mesh throughout the entire net will not be subject to mesh changes under this rule. For vessels fishing with a 6.5-inch (16.5-cm) diamond mesh codend, or for vessels fishing with a 6.5-inch (16.5-cm) square mesh codend and a combination of square mesh and diamond mesh throughout the remaining portions of the net, the codend is defined as follows: 25 meshes for diamond mesh, or 50 bars in the case of square mesh, from the terminus of the net for vessels 45 ft (13.7-m) in length and less, and 50 meshes for diamond mesh, or 100 bars in the case of square mesh, from the terminus of the net for vessels greater than 45 ft (13.7 m) in length. The status quo minimum mesh size of 6.0-inch (15.2-cm) diamond or 6.5-inch (16.5-cm) square mesh throughout the net when fishing under a multispecies DAS remains in effect in the GB RMA.

Beginning May 15, 2002, this interim final rule also requires that limited access multispecies vessels that obtain an annual designation as a Trip gillnet vessel, when fishing in the GOM RMA during any part of a trip under a multispecies DAS, fish with nets with a minimum of 6.5-inch (16.5-cm) mesh. Multispecies vessels that obtain an annual designation as a Day gillnet vessel must fish with nets with a minimum mesh size of 6.5 inches (16.5 cm) when fishing with roundfish gillnets, or 7 inches (17.8 cm) when fishing with flatfish gillnet gear when fishing any part of a trip under a multispecies DAS in the GOM RMA. The allowable amount of gillnet gear for Day gillnet vessels when fishing under a multispecies DAS is reduced from the currently allowed 80 roundfish nets/160 flatfish nets to 50 roundfish nets/100 flatfish nets. Monkfish vessels that have a monkfish limited access Category C or D permit (i.e., vessels that possess both a monkfish and multispecies limited access permit) and that are fishing as a

Day gillnet vessel under a monkfish DAS will be restricted to 150 nets (from the current 160 nets), provided the vessel fishes with nets with a minimum mesh size of 10 inches (25.4 cm). Net reductions apply everywhere. The existing gillnet tagging requirements are suspended for the duration of this interim rule.

#### Recreational and Charter/Party Vessel Restrictions

Under this action, the minimum length for cod retained by a federally permitted charter/party vessels, and private recreational vessels not holding a Federal permit and fishing in the EEZ, is increased to 23 inches (58.4 cm) from the current size limit of 21 inches (53.3 cm).

This action implements a cod and haddock bag (possession) limit for the charter/party recreational fishing sector when fishing in the GOM RMA. Each person on a charter/party vessel will be allowed to possess no more than 10 cod or haddock, combined, per trip. The regulations currently prohibit a vessel fishing under the charter/party regulations from fishing in the GOM closure areas unless the vessel has on board a letter of authorization (LOA) issued by the Regional Administrator. This LOA is currently valid for a period of 3 months, and prevents a vessel from fishing under a DAS and selling fish during the time of authorization and thus exempts the charter/party vessel from the WGOM closure. Under this interim action, beginning May 15, 2002, charter/party vessels are required to possess an LOA for the full span of this interim final rule in order to fish as a charter/party vessel in the GOM closure areas. LOAs issued to vessels before May 1, 2002, and which would expire prior to the expiration of this interim action, will automatically be canceled at midnight on May 14, 2002. Vessels wanting to obtain an LOA for the entire duration of this interim action will need to obtain a new LOA by calling the NMFS Permit Office at 978-281-9370.

All other existing recreational measures remain unchanged, including the no-sale provision for both the party/charter and private recreational sectors when not fishing under a NE multispecies DAS. Table 2 summarizes the party/charter and private recreational sector measures.

TABLE 2.—CHARTER/PARTY AND PRIVATE RECREATIONAL FISHING MEASURES

	Minimum fish size, Inches (code only) <sup>1</sup>	Bag limit (combined)	Closure exemption authorization
Charter/party .....	23	10 cod/haddock <sup>2</sup> .....	Duration of interim action.

TABLE 2.—CHARTER/PARTY AND PRIVATE RECREATIONAL FISHING MEASURES—Continued

	Minimum fish size, inches (code only) <sup>1</sup>	Bag limit (combined)	Closure exemption authorization
Private Recreational .....	23	10 cod/haddock .....	N/A.

<sup>1</sup> All other minimum fish sizes remain unchanged.

<sup>2</sup> When fishing in the GOM RMA.

### Observer Coverage

Although not a management measure, NMFS will, by May 1, 2002, expand significantly its observer coverage in the Northeast multispecies fishery to monitor and collect information on bycatch, as well as other biological and fishery-related information. Observer coverage will be increased by approximately 1,200 days (more than double the 2001 coverage) with coverage distributed over gear categories, vessel size categories and fishing regions, in order to provide statistically sound estimates of directed catch, non-directed catch and discards (bycatch).

### Classification

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B) to waive the requirement to provide prior notice and opportunity for public comment. Implementation of this action by May 1, 2002, is necessary to continue, in its current configuration, the WGOM Area Closure, an area with high cod landings, beyond its scheduled May 1, 2002, re-opening date. The re-opening of the WGOM Area Closure was postponed initially through measures promulgated under Framework Adjustment 33 (65 FR 21658, April 24, 2000), and was further discussed by the Council and public during development of Framework Adjustment 36. The WGOM Area Closure, and the additional management measures included under this action, will contribute to a significant reduction in cod mortality. The AA finds also that the exigencies associated with complying with the Court order and providing immediate protection to the multispecies stocks by significantly reducing overfishing while longer-term, more comprehensive measures are being developed, constitutes good cause to waive the requirement to provide prior notice and the opportunity for public comment, pursuant to authority set forth at U.S.C. 553(b)(B), as such procedures would be impracticable and contrary to the public interest. This determination is further supported by the fact that these measures are largely based on measures developed and analyzed by the Council, and commented on by the public, in the development of

Framework 36 to the FMP. The need to implement these measures in a timely manner to have management measures in place to both maintain the WGOM Area Closure and to reduce overfishing at the start of the 2002 multispecies fishing year, beginning May 1, 2002, constitutes good cause under authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delay, or a portion thereof, in effective date.

This interim final rule includes by reference collection-of-information requirements subject to the Paperwork Reduction Act. This rule will not impact substantially the current respondent estimates. The collection of this information has been approved by OMB, and the OMB control numbers and the estimated time for a response are as follows:

Letters of authorization, OMB control number 0648–0202 (5 minutes/response).

Letters of authorization, OMB control number 0648–0422 (2 minutes/response).

Call-in system (DAS notification), OMB control number 0648–0202 (2 minutes/response).

The aforementioned response estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates, or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS and OMB (see ADDRESSES).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

NMFS prepared an EA for this interim action and the AA concluded that there will be no significant impact on the human environment as a result of this rule. A copy of the EA is available from NMFS (see ADDRESSES).

This interim final rule has been determined to be significant for purposes of Executive Order 12866.

Because this interim final rule is published without opportunity for notice and comment, neither the Regulatory Flexibility Act, nor any other law requires preparation of an Initial Regulatory Flexibility Analysis. Therefore, none has been prepared.

An informal consultation under section 7 of the Endangered Species Act was concluded for this interim final rule under the FMP on April 17, 2002. As a result of the informal consultation, the Regional Administrator determined that fishing activities conducted under this interim final rule are not likely to adversely affect endangered or threatened species or critical habitat.

The Regional Administrator has determined that fishing activities conducted under this interim final rule will have no adverse impact on marine mammals.

### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 24, 2002.

**John Oliver,**

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

For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.2, the definitions “Day(s)-at-Sea (DAS)”, “Non-exempt species”, and “Prior to leaving port” are suspended and new definitions for “Day(s)-at-Sea (DAS) for the 2002 fishing year”, “Non-exempt species for the 2002 fishery”, “Prior to leaving port for the 2002 fishery”, and “Private recreational fishing vessel” are added to read as follows:

#### § 648.2 Definitions.

\* \* \* \* \*

*Day(s)-at-Sea (DAS) for the 2002 fishing year*, with respect to the NE multispecies fishery, the monkfish fishery, and the Atlantic sea scallop

fishery, except as described in § 648.82(k)(1)(iv), means the 24-hour period of time, or any part thereof, during which a fishing vessel is absent from port to fish for, possess or land, or fishes for, possesses, or lands regulated species, monkfish, or scallops. With respect to the NE multispecies fishery, accrual and usage of DAS is described at § 648.82(l).

\* \* \* \* \*

*Non-exempt species for the 2002 fishery* means species of fish not included under the GOM, GB and SNE Regulated Mesh Area exempted fisheries, as specified in paragraphs § 648.80(e); (j)(5); (j)(6); (j)(9) through (14); (k)(3)(i) and (ii); (k)(5) through (8); and (m), (o), and (p).

\* \* \* \* \*

*Prior to leaving port for the 2002 fishery*, with respect to the call-in notification system for NE multispecies, means no more than 1 hour prior to the time a vessel leaves the last dock or mooring in port from which a vessel departs to engage in fishing, including the transport of fish to another port.

*Private recreational fishing vessel*, with respect to the NE multispecies fishery, means a vessel engaged in recreational fishing that has not been issued a Federal multispecies permit, does not sell fish, and does not take passengers for hire.

\* \* \* \* \*

3. In § 648.10, paragraph (c)(1) is suspended, and paragraph (c)(6) is added to read as follows:

**§ 648.10 DAS notification requirements.**

\* \* \* \* \*

(c) \* \* \*

(6) Less than 1 hour prior to leaving port, for vessels issued a limited access NE multispecies permit or, for vessels issued a limited access NE multispecies permit and a limited access monkfish Category C or D permit, and, prior to leaving port for vessels issued a limited access monkfish Category A or B permit, the vessel owner or authorized representative must notify the Regional Administrator that the vessel will be participating in the DAS program by calling the Regional Administrator and providing the following information: Owner and caller name and phone number, vessel's name and permit number, type of trip to be taken, port of departure, and that the vessel is beginning a trip. A DAS begins once the call has been received and a confirmation number is given by the Regional Administrator, or when a vessel leaves port, whichever occurs first.

\* \* \* \* \*

4. In § 648.14, paragraphs (a)(35) through (45), (a)(47), (a)(49) through (53), (a)(90), (a)(101), (a)(102), (a)(104), (a)(112), (a)(116), (a)(121), (b)(2), (c)(10), (c)(13), (c)(19), (c)(20), (c)(23) through (26), (c)(29) through (31), (g)(2) and (3), and (z)(2)(i) are suspended, and paragraphs (a)(123) through (148), (b)(3), (c)(32) through (37), and (g)(4) through (6) are added to read as follows:

**§ 648.14 Prohibitions.**

(a) \* \* \*

(123) Fish with, use, or have on board, within the areas described in § 648.80(j)(1) and (2), nets with mesh size smaller than the minimum mesh size specified in § 648.80(j)(3) and (4), except as provided in § 648.80(e), (j)(5) through (7), (j)(9), (j)(10), (j)(15), (m), and (p), unless the vessel has not been issued a NE multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

(124) Fish with, use, or have available for immediate use within the area described in § 648.80(k)(1), nets of mesh size smaller than the minimum size specified in § 648.80(k)(2), except as provided in § 648.80(e), (k)(3), (k)(9), (m), and (p), or unless the vessel has not been issued a NE multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

(125) Fish with, use, or have available for immediate use within the area described in § 648.80(l)(1), nets of mesh size smaller than the minimum mesh size specified in § 648.80(l)(2); except as provided in § 648.80(e), (l)(3), (m), and (o); or unless the vessel has not been issued a NE multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

(126) Enter or be in the area described in § 648.81(p)(1) on a fishing vessel, except as provided in § 648.81(p)(2) and (s).

(127) Enter or be in the area described in § 648.81(q)(1) on a fishing vessel, except as provided in § 648.81(q)(2).

(128) Enter or be in the area described in § 648.81(r)(1) on a fishing vessel, except as allowed under § 648.81(r)(2) and (s).

(129) Fail to comply with the gear-marking requirements of § 648.84.

(130) Fish within the areas described in § 648.80(j)(6) with nets of mesh size smaller than the minimum size specified in § 648.80(j)(4), unless the vessel possesses on board a valid authorizing letter issued to the vessel under § 648.80(j)(6)(i) and the vessel complies with the requirements specified in § 648.80(j)(6).

(131) Violate any of the provisions of § 648.80, including paragraphs (j)(5), the small-mesh northern shrimp fishery exemption area; (j)(6), the Cultivator Shoal whiting fishery exemption area; (j)(9), Small-mesh Area 1/Small-mesh Area 2; (j)(10), the Nantucket Shoals dogfish fishery exemption area; (j)(12), the Nantucket Shoals mussel and sea urchin dredge exemption area; (j)(13), the GOM/GB monkfish gillnet exemption area; (j)(14), the GOM/GB dogfish gillnet exemption area; (j)(15), the Raised Footrope Trawl Exempted Whiting Fishery; (k)(3), exemptions (small mesh); (k)(5), the SNE monkfish and skate trawl exemption area; (k)(6), the SNE monkfish and skate gillnet exemption area; (k)(7), the SNE dogfish gillnet exemption area; (k)(8), the SNE mussel and sea urchin dredge exemption area; or (k)(9), the SNE little tunny gillnet exemption area. Each violation of any provision in § 648.80 constitutes a separate violation.

(132) Fish for, land, or possess NE multispecies harvested by means of pair trawling or with pair trawl gear, except under the provisions of § 648.80(m), or unless the vessels that engaged in pair trawling have not been issued NE multispecies permits and fish for NE multispecies exclusively in state waters.

(133) Fish for, harvest, possess, or land in or from the EEZ northern shrimp, unless such shrimp were fished for or harvested by a vessel meeting the requirements specified in § 648.80(j)(5).

(134) Fish for the species specified in § 648.80(e) or (m) with a net of mesh size smaller than the applicable mesh size specified in § 648.80(j)(3) or (4), (k)(2), or (l)(2), or possess or land such species, unless the vessel is in compliance with the requirements specified in § 648.80(e) or (m), or unless the vessel has not been issued a NE multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

(135) Violate any of the possession or landing restrictions on fishing with scallop dredge gear specified in §§ 648.80(o) and 648.94.

(136) Violate any provision of the state waters winter flounder exemption program as provided in § 648.80(p).

(137) Obstruct or constrict a net as described in § 648.80(n)(1) or (2).

(138) Enter, be on a fishing vessel in, or fail to remove gear from, the EEZ portion of the areas described in § 648.81(t)(1), during the time periods specified in § 648.81(t)(1), except as provided in § 648.81(s) and (t)(2).

(139) Possess, land, or fish for regulated species, except winter flounder as provided for in accordance

with § 648.80(p) and from or within the areas described in § 648.80(p), while in possession of scallop dredge gear on a vessel not fishing under the scallop DAS program as described in § 648.53, or fishing under a general scallop permit, unless the vessel and the dredge gear conform with the stowage requirements of § 648.51(a)(2)(ii) and (e)(2), or unless the vessel has not been issued a NE multispecies permit and fishes for NE multispecies exclusively in state waters.

(140) Use, set, haul back, fish with, possess on board a vessel, unless stowed in accordance with § 648.23(b), or fail to remove, sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(t)(2)(ii)), in the areas and for the times specified in § 648.87(a) and (b), except as provided in §§ 648.81(t)(2)(ii) and 648.87(a) and (b), or unless otherwise authorized in writing by the Regional Administrator.

(141) Enter or fish in the Gulf of Maine, Georges Bank and Southern New England Regulated Mesh Areas, except as provided in § 648.80(j)(3)(iii) and (k)(2)(ii), and for purposes of transiting, provided that all gear (other than exempted gear) is stowed in accordance with § 648.23(b).

(142) Fish for, harvest, possess, or land regulated species in or from the closed areas specified in § 648.81(p), (q), (r), (t), (u), and (v), unless otherwise specified in § 648.81(r)(2)(iii), (t)(2)(i), and (t)(2)(iii).

(143) Fish for, harvest, possess, or land in or from the EEZ, when fishing with trawl gear, any of the exempted species specified in § 648.80(j)(9)(i), unless such species were fished for or harvested by a vessel meeting the requirements specified in § 648.80(j)(5)(ii) or (j)(9)(ii).

(144) Fish for, harvest, possess, or land any species of fish in or from the GOM/GB Inshore Restricted Roller Gear Area described in § 648.80(j)(3)(v) with trawl gear where the diameter of any part of the trawl footrope, including discs, rollers or rockhoppers, is greater than 12 inches (30.48 cm).

(145) Enter, be on a fishing vessel in, or fail to remove gear from, the EEZ portion of the areas and time periods specified in § 648.81(w), except as provided in § 648.81(s) and (w)(2).

(146) Enter, be on a fishing vessel in, or fail to remove gear from the EEZ portion of the areas described in § 648.81(t)(1) through (v)(1), during the time periods specified, except as provided in § 648.81(s), (t)(2), (u)(2) and (v)(2).

(147) Enter, be on a fishing vessel in, or fail to remove gear from the area

described in § 648.81(v)(1), except as provided in § 648.81(s) and (v)(2).

(148) Enter, fail to remove gear from, or be in the areas described in § 648.81(t)(1) through (v)(1) during the time period specified, except as provided in § 648.81(s), (t)(2), (u)(2), and (v)(2).

(b) \* \* \*

(3) If the vessel has been issued a charter/party permit or is fishing under charter/party regulations, fail to comply with the requirements specified in § 648.81(t)(2)(iii) when fishing in the areas described in § 648.81(t)(1), (u), and (w), during the time periods specified in those sections.

(c) \* \* \*

(32) Enter, fail to remove sink gillnet gear or gillnet gear capable of catching NE multispecies from, or be in the areas, and during the times, described in § 648.87(a) and (b), except as provided in § 648.81(s) and (t)(2), and in § 648.87(a)(1)(ii).

(33) If the vessel has been issued a Day gillnet category designation, fail to remove gillnet gear from the water as described in § 648.82(g), (k)(1)(iv) and (k)(1)(ix).

(34) Fail to comply with the exemption specification as described in § 648.86(h)(5).

(35) Fail to enter port and call out of the DAS program no later than 14 DAS after starting a multispecies DAS trip (i.e., the time a vessel leaves port or when the vessel received a DAS authorization number, whichever comes first), as specified in § 648.10(f)(3), unless otherwise specified in § 648.86(b)(1)(ii), or unless the vessel is fishing under the cod exemption specified in § 648.86(b)(5).

(36) Enter port, while on a NE multispecies DAS trip, in possession of more than the allowable limit of cod specified in § 648.86(b)(1), unless the vessel is fishing under the cod exemption specified in § 648.86(b)(5). Under no circumstances may such trip exceed 14 days in length.

(37) If the vessel has been issued a Charter/Party permit or is fishing under charter/party regulations, fail to comply with the requirements specified in § 648.81(t)(2)(iii) when fishing in the areas described in § 648.81(t)(1) through (v)(1), during the time periods specified in those sections.

\* \* \* \* \*

(g) \* \* \*

(4) Possess cod, haddock, and Atlantic halibut in excess of the possession limits specified in § 648.89(g).

(5) Sell, trade, or otherwise transfer, or attempt to sell, trade, barter, or otherwise transfer, NE multispecies for

a commercial purpose as specified in § 648.89(h).

(6) Retain fish smaller than the minimum fish sizes specified in § 648.89(f), if fishing under the private recreational and party/charter regulations.

\* \* \* \* \*

5. In § 648.53, paragraph (e) is suspended and paragraph (g) is added to read as follows:

**§ 648.53 DAS allocations.**

\* \* \* \* \*

(g) *Accrual of DAS.* DAS shall accrue to the nearest minute, except as specified in § 648.82(l).

6. In § 648.80, paragraphs (a) through (d), and (g) through (i) are suspended, and paragraphs (j) through (p) are added to read as follows:

**§ 648.80 Multispecies regulated mesh areas and restrictions on gear and methods of fishing.**

\* \* \* \* \*

(j) *Gulf of Maine (GOM) and Georges Bank (GB) Regulated Mesh Areas—(1) GOM Regulated Mesh Area.* The GOM Regulated Mesh Area (copies of a map depicting the area are available from the Regional Administrator upon request) is that area:

(i) Bounded on the east by the U.S.-Canada maritime boundary defined by straight lines connecting the following points in the order stated:

Point	N. Lat.	W. Long.
G1 .....	(1)	(1)
G2 .....	43°58'	67°22'
G3 .....	42°53.1'	67°44.4'
G4 .....	42°31'	67°28.1'
G5 .....	(2)	67°20'

<sup>1</sup> The intersection of the shoreline and the U.S.-Canada Maritime Boundary.

<sup>2</sup> The intersection of the U.S.-Canada Maritime Boundary and 67°20' W. long.

(ii) Bounded on the south by straight lines connecting the following points in the order stated:

Point	N. Lat.	W. Long.
G5 .....	(1)	67°20'
G6 .....	42°20'	67°20'
G7 .....	42°20'	69°30'
G8 .....	42°00'	69°30'
G9 .....	42°00'	(2)

<sup>1</sup> The intersection of the U.S.-Canada Maritime Boundary and 67°20' W. long.

<sup>2</sup> The intersection of the Cape Cod, MA, coastline and 42°00' N. lat.

(2) *GB Regulated Mesh Area.* The GB Regulated Mesh Area (copies of a map depicting the area are available from the Regional Administrator upon request) is that area:

(i) Bounded on the north by the southern boundary of the GOM

Regulated Mesh Area as defined in paragraph (j)(1)(ii) of this section; and

(ii) Bounded on the east and south by straight lines connecting the following points in the order stated:

Point	N. Lat.	W. Long.	Approximate Ioran C bearings
G5 .....	(1)	67°20'	5930-Y-30750-Y-43500. 9960-Y-43500 and 68°00' W. lat. 9960-Y-43450 and 68°00' W. lat.
G10 .....	41°18.6'	66°24.8'	
G11 .....	40°55.5'	66°38'	
G12 .....	40°45.5'	68°00'	
G13 .....	40°37'	68°00'	
G14 .....	40°30'	69°00'	
NL3 .....	40°22.7'	69°00'	
NL2 .....	40°18.7'	69°40'	
NL1 .....	40°50'	69°40'	
G11 .....	40°50'	70°00'	
G12 .....		70°00' <sup>1</sup>	

<sup>1</sup> Northward to its intersection with the shoreline of mainland Massachusetts.

(3) *GOM Regulated Mesh Area minimum mesh size restrictions*—(i) *Vessels using trawls*. Except as provided in paragraphs (j)(3)(i) and (iv) of this section, and unless otherwise restricted under paragraph (j)(3)(vi) of this section, the minimum mesh size for any trawl net, except midwater trawl, on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 6-inch (15.24-cm) diamond mesh or 6.5-inch (16.51-cm) square mesh, applied throughout the body and extension of the net, or any combination thereof, and 6.5-inch (16.51-cm) diamond mesh applied to the first 50 meshes, counting from the terminus of the net, for vessel greater than 45 ft (13.7 m) in length overall, and applied to the first 25 meshes for vessels 45 ft (13.7 m) or less in length overall, or 6.5-inch (16.51-cm) square mesh applied to the first 100 bars, counting from the terminus of the net, for vessels greater than 45 ft (13.7 m) in length overall, and applied to the first 50 bars, counting from the terminus of the net, for vessels 45 ft (13.7 m) or less in length overall, provided the vessel complies with the requirements of paragraph (j)(3)(v) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(ii) *Vessels using Scottish seine, midwater trawl, and purse seine*. Except as provided in paragraphs (j)(3)(ii) and (iv) of this section, the minimum mesh size for any Scottish seine, midwater trawl, or purse seine, on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 6-inch (15.24-cm) diamond mesh or 6.5-inch (16.51-cm) square mesh applied throughout the net, or any combination

thereof, provided the vessel complies with the requirements of paragraph (j)(3)(v) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iii) *Gillnet vessels*—(A) *Trip gillnet vessels*. Except as provided in paragraphs (j)(3)(iii) and (iv) of this section, for vessels that obtain an annual designation as a Trip gillnet vessel, the minimum mesh size for any sink gillnet when fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 6.5 inches (16.51 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(B) *Day gillnet vessels*. Except as provided in paragraphs (j)(3)(iii) and (iv) of this section, for vessels that obtain an annual designation as a Day gillnet vessel, the minimum mesh size for any roundfish gillnet when fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 6.5 inches (16.51 cm) throughout the entire net, and the minimum mesh size for any flatfish gillnet when fishing under a DAS in the NE multispecies DAS program in the GOM Regulated Mesh Area is 7.0 inches (17.78 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iv) *Other restrictions and exemptions*. Vessels other than private recreational vessels are prohibited from fishing in the GOM or GB Regulated

Mesh Area, except if fishing with exempted gear (as defined under this part) or under the exemptions specified in paragraphs (e), (j)(5) through (j)(7), (j)(9) through (j)(14), (m), (o), and (p) of this section; or if fishing under a NE multispecies DAS; or if fishing under the small vessel exemption specified in § 648.82(b)(3); or if fishing under the scallop state waters exemptions specified in § 648.54 and paragraph (j)(11) of this section; if fishing under a scallop DAS in accordance with paragraph (h) of this section, or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit. Any gear on a vessel, or used by a vessel, in this area must be authorized under one of these exemptions or must be stowed as specified in § 648.23(b).

(v) *Rockhopper and roller gear restrictions*. For all trawl vessels fishing in the GOM/GB Inshore Restricted Roller Gear Area, the diameter of any part of the trawl footrope, including discs, rollers, or rockhoppers, must not exceed 12 inches (30.48 cm). The GOM/GB Inshore Restricted Roller Gear Area is defined by straight lines connecting the following points in the order stated:

#### INSHORE RESTRICTED ROLLER GEAR AREA

Point	N. Lat.	W. Long.
GM1 .....	42°00'	(1)
GM2 .....	42°00'	(2)
GM3 .....	42°00'	(3)
GM23 .....	42°00'	69°50'
GM24 .....	43°00'	69°50'
GM11 .....	43°00'	70°00'
GM17 .....	43°30'	70°00'
GM18 .....	43°00'	(4)

<sup>1</sup> Massachusetts shoreline.

<sup>2</sup> Cape Cod shoreline on Cape Cod Bay.

<sup>3</sup> Cape Cod shoreline on the Atlantic Ocean.

<sup>4</sup> Maine shoreline.

(vi) *Large-mesh vessels*. When fishing in the GOM or GB Regulated Mesh Area,



the minimum mesh size for any sink gillnet on a vessel or used by a vessel fishing under a DAS in the large-mesh DAS program specified in § 648.82(b)(6) and (9) is 7-inch (17.78-cm) diamond mesh throughout the entire net. The minimum mesh size for any trawl net on a vessel or used by a vessel fishing under a DAS in the large-mesh DAS program is 8-inch (20.32-cm) diamond mesh throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(4) *GB Regulated Mesh Area gear restrictions.* Except as provided in paragraphs (j)(3)(iv) and (j)(4) of this section, and unless otherwise restricted under paragraph (j)(3)(vi) of this section, the minimum mesh size for any trawl net, sink gillnet, Scottish seine, midwater trawl, or purse seine on a vessel or used by a vessel fishing under a DAS in the NE multispecies DAS program in the GB Regulated Mesh Area is 6-inch (15.24-cm) diamond mesh or 6.5-inch (16.51-cm) square mesh throughout the entire net, or any combination thereof, provided the vessel complies with the requirements of paragraph (j)(3)(v) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(5) *Small Mesh Northern Shrimp Fishery Exemption Area.* Vessels subject to the minimum mesh size restrictions specified in this paragraph (j) may fish for, harvest, possess, or land northern shrimp in the Small Mesh Northern Shrimp Fishery Exemption Area with nets with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements of paragraphs (j)(5)(i) through (iii) of this section. The Small Mesh Northern Shrimp Fishery Exemption Area is defined by straight lines connecting the following points in the order stated (copies of a map depicting the area are available from the Regional Administrator upon request):

#### SMALL MESH NORTHERN SHRIMP FISHERY EXEMPTION AREA

Point	N. Lat.	W. Long.
SM1 .....	41°35'	70°00'
SM2 .....	41°35'	69°40'
SM3 .....	42°49.5'	69°40'
SM4 .....	43°12'	69°00'
SM5 .....	43°41'	68°00'

#### SMALL MESH NORTHERN SHRIMP FISHERY EXEMPTION AREA—Continued

Point	N. Lat.	W. Long.
G2 .....	43°58'	67°22'
G1 .....	(1)	(1)

<sup>1</sup> Northward along the irregular U.S.-Canada maritime boundary to the shoreline.

(i) *Restrictions on fishing for, possessing, or landing fish other than shrimp.* (A) Through April 30, 2003, an owner or operator of a vessel fishing in the northern shrimp fishery described in this section under this exemption may not fish for, possess on board, or land any species of fish other than shrimp, except for the following, with the restrictions noted, as allowable incidental species: Longhorn sculpin; combined silver hake and offshore hake—up to an amount equal to the total weight of shrimp possessed on board or landed, not to exceed 3,500 lb (1,588 kg); and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter. Silver hake and offshore hake on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

(B) Beginning May 1, 2003, an owner or operator of a vessel fishing for northern shrimp may not fish for, possess on board, or land any species of fish other than shrimp, except for the following, with the restrictions noted, as allowable incidental species: Longhorn sculpin; combined silver hake and offshore hake—up to 100 lb (45.36 kg); and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(ii) *Requirement to use a finfish excluder device (FED).* A vessel must have a rigid or semi-rigid grate consisting of parallel bars of not more than 1-inch (2.54-cm) spacing that excludes all fish and other objects, except those that are small enough to pass between its bars into the codend of the trawl, secured in the trawl, forward of the codend, in such a manner that it precludes the passage of fish or other objects into the codend without the fish or objects having to first pass between the bars of the grate, in any net with mesh smaller than the minimum size specified in paragraphs (j)(3) and (4) of this section. The net must have an outlet or hole to allow fish or other objects that are too large to pass between the bars of

the grate to exit the net. The aftermost edge of this outlet or hole must be at least as wide as the grate at the point of attachment. The outlet or hole must extend forward from the grate toward the mouth of the net. A funnel of net material is allowed in the lengthening piece of the net forward of the grate to direct catch towards the grate. (Copies of a schematic example of a properly configured and installed FED are available from the Regional Administrator upon request.)

(iii) *Time restrictions.* A vessel may only fish under this exemption during the northern shrimp season, as established by the Commission and announced in the Commission's letter to participants.

(6) *Cultivator Shoal Whiting Fishery Exemption Area.* Vessels subject to the minimum mesh size restrictions specified in paragraphs (j)(3) and (4) of this section may fish with, use, or possess nets in the Cultivator Shoal Whiting Fishery Exemption Area with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraph (j)(6)(i) of this section. The Cultivator Shoal Whiting Fishery Exemption Area (copies of a map depicting the area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

#### CULTIVATOR SHOAL WHITING FISHERY EXEMPTION AREA

Point	N. Lat.	W. Long.
C1 .....	42°10'	68°10'
C2 .....	41°30'	68°41'
C14 .....	41°30'	68°30'
C3 .....	41°12.8'	68°30'
C4 .....	41°05'	68°20'
C5 .....	41°55'	67°40'
C1 .....	42°10'	68°10'

(i) *Requirements.* (A) A vessel fishing in the Cultivator Shoal Whiting Fishery Exemption Area under this exemption must have a valid letter of authorization issued by the Regional Administrator on board.

(B) Through April 30, 2003, an owner or operator of a vessel fishing in this area may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up to a maximum of 30,000 lb (13,608 kg), except for the following, with the restrictions noted, as allowable incidental species: Herring; longhorn sculpin; squid; butterfish; Atlantic mackerel; dogfish, and red hake—up to 10 percent each, by weight, of all other species on board; monkfish and monkfish parts—up to 10 percent, by

weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(C) Beginning May 1, 2003, an owner or operator of a vessel fishing in this area is subject to the mesh size restrictions specified in paragraph (j)(6)(i)(D) of this section and may not fish for, possess on board, or land any species of fish other than whiting and offshore hake combined—up to a maximum of 10,000 lb (4,536 kg), except for the allowable incidental species listed in paragraph (j)(6)(i)(B) of this section.

(D) Counting from the terminus of the net, all nets must have a minimum mesh size of 3-inch (7.62-cm) square or diamond mesh applied to the first 100 meshes (200 bars in the case of square mesh) for vessels greater than 60 ft (18.28 m) in length applied to and the first 50 meshes (100 bars in the case of square mesh) for vessels less than or equal to 60 ft (18.28 m) in length.

(E) Fishing is confined to a season of June 15 through September 30, unless otherwise specified by notification in the **Federal Register**.

(F) When transiting through the GOM or GB Regulated Mesh Areas specified under paragraphs (j)(1) and (2) of this section, any nets with a mesh size smaller than the minimum mesh specified in paragraphs (j)(3) or (4) of this section must be stowed in accordance with one of the methods specified in § 648.23(b), unless the vessel is fishing for small-mesh multispecies under another exempted fishery specified in this paragraph (j).

(G) A vessel fishing in the Cultivator Shoal Whiting Fishery Exemption Area may fish for small-mesh multispecies in exempted fisheries outside of the Cultivator Shoal Whiting Fishery Exemption Area, provided that the vessel complies with the requirements specified in this paragraph (j)(6)(i) for the entire trip.

(ii) *Sea sampling.* The Regional Administrator shall conduct periodic sea sampling to determine if there is a need to change the area or season designation, and to evaluate the bycatch of regulated species, especially haddock.

(iii) *Annual review.* The NEFMC shall conduct an annual review of data to determine if there are any changes in area or season designation necessary, and to make appropriate

recommendations to the Regional Administrator following the procedures specified in § 648.90.

(7) *Transiting.* (i) Vessels fishing in the Small Mesh Northern Shrimp Fishery or the Small Mesh Area 1/Small Mesh Area 2 fishery, as specified in paragraphs (j)(5) and (9) of this section, may transit through the Small Mesh Northern Shrimp Fishery Exemption Area as specified in paragraph (a)(5) of this section with nets of mesh size smaller than the minimum mesh size specified in paragraphs (j)(3) or (4) of this section, provided that the nets are stowed and not available for immediate use in accordance with one of the methods specified in § 648.23(b).

(ii) Vessels subject to the minimum mesh size restrictions specified in paragraphs (j)(3) or (4) of this section may transit through the Small Mesh Northern Shrimp Fishery Exemption Area defined in paragraph (j)(5) of this section with nets on board with a mesh size smaller than the minimum size specified, provided that the nets are stowed in accordance with one of the methods specified in § 648.23(b), and provided the vessel has no fish on board.

(iii) Vessels subject to the minimum mesh size restrictions specified in paragraphs (j)(3) or (4) of this section may transit through the GOM and GB Regulated Mesh Areas defined in paragraphs (j)(1) and (2) of this section with nets on board with a mesh size smaller than the minimum mesh size specified and with small mesh exempted species on board, provided that the following conditions are met:

(A) All nets with a mesh size smaller than the minimum mesh size specified in paragraphs (j)(3) or (4) of this section are stowed in accordance with one of the methods specified in § 648.23(b).

(B) A letter of authorization issued by the Regional Administrator is on board.

(C) Vessels do not fish for, possess on board, or land any fish, except when fishing in the areas specified in paragraphs (j)(6), (j)(10), (j)(15), (b), and (c) of this section. Vessels may retain exempted small mesh species as provided in paragraphs (j)(6)(i), (j)(10)(i), (j)(15)(i), (b)(3), and (c)(3) of this section.

(8) *Addition or deletion of exemptions—(i) Species—(A) Regulated multispecies.* An exemption may be added in an existing fishery for which there are sufficient data or information to ascertain the amount of regulated species bycatch, if the Regional Administrator, after consultation with the NEFMC, determines that the percentage of regulated species caught as bycatch is, or can be reduced to, less

than 5 percent, by weight, of total catch and that such exemption will not jeopardize fishing mortality objectives. In determining whether exempting a fishery may jeopardize meeting fishing mortality objectives, the Regional Administrator may take into consideration various factors including, but not limited to, juvenile mortality. A fishery can be defined, restricted, or allowed by area, gear, season, or other means determined to be appropriate to reduce bycatch of regulated species. An existing exemption may be deleted or modified if the Regional Administrator determines that the catch of regulated species is equal to or greater than 5 percent, by weight, of total catch, or that continuing the exemption may jeopardize meeting fishing mortality objectives. Notification of additions, deletions or modifications are made through issuance of a rule in the **Federal Register**.

(B) *Small-mesh multispecies.*

Beginning May 1, 2003, an exemption may be added in an existing fishery for which there are sufficient data or information to ascertain the amount of small-mesh multispecies bycatch, if the Regional Administrator, after consultation with the NEFMC, determines that the percentage of small-mesh multispecies caught as bycatch is, or can be reduced to, less than 10 percent, by weight, of total catch and that such exemption will not jeopardize fishing mortality objectives. In determining whether exempting a fishery may jeopardize meeting fishing mortality objectives, the Regional Administrator may take into consideration various factors including, but not limited to, juvenile mortality. A fishery can be defined, restricted, or allowed by area, gear, season, or other means determined to be appropriate to reduce bycatch of small-mesh multispecies. An existing exemption may be deleted or modified if the Regional Administrator determines that the catch of regulated species is equal to or greater than 10 percent, by weight, of total catch, or that continuing the exemption may jeopardize meeting fishing mortality objectives. Notification of additions, deletions, or modifications are made through issuance of a rule in the **Federal Register**.

(ii) The NEFMC may recommend to the Regional Administrator, through the framework procedure specified in § 648.90(b), additions or deletions to exemptions for fisheries, either existing or proposed, for which there may be insufficient data or information for the Regional Administrator to determine, without public comment, percentage

catch of regulated species or small-mesh multispecies.

(iii) The Regional Administrator may, using the process described in either paragraph (j)(8)(i) or (ii) of this section, authorize an exemption for a white hake fishery by vessels using regulated mesh or hook gear. Determination of the percentage of regulated species caught in such fishery shall not include white hake.

(iv) Bycatch in exempted fisheries authorized under this paragraph (j)(8) are subject, at minimum, to the following restrictions:

(A) With the exception of fisheries authorized under paragraph (j)(8)(iii) of this section, a prohibition on the possession of regulated species.

(B) A limit on the possession of monkfish or monkfish parts of 10 percent, by weight, of all other species on board or as specified by § 648.94(c)(3), (4), (5) or (6), as applicable, whichever is less.

(C) A limit on the possession of lobsters of 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less.

(D) A limit on the possession of skate or skate parts in the Southern New England regulated mesh area described in paragraph (b) of this section of 10 percent, by weight, of all other species on board.

(9) *Small Mesh Area 1/Small Mesh Area 2*—(i) *Description*. (A) Unless otherwise prohibited in § 648.81, through April 30, 2003, a vessel subject to the minimum mesh size restrictions specified in paragraphs (j)(3) or (4) of this section may fish with or possess nets with a mesh size smaller than the minimum size, provided the vessel complies with the requirements of paragraphs (j)(5)(ii) or (j)(9)(ii) of this section and § 648.86(d) from July 15 through November 15, when fishing in Small-mesh Area 1, and from January 1 through June 30, when fishing in Small-mesh Area 2. An owner or operator of any vessel may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake—up to the amounts specified in § 648.86(d); butterfish; dogfish; herring; Atlantic mackerel; ocean pout; scup; squid; and red hake; except for the following allowable incidental species (bycatch as the term is used elsewhere in this part) with the restrictions noted: Longhorn sculpin; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or

200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(B) Unless otherwise prohibited in § 648.81, beginning May 1, 2003, in addition to the requirements specified in paragraph (j)(9)(i)(A) of this section, nets may not have a mesh size of less than 3-inch (7.62-cm) square or diamond mesh counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.28 m) in length and counting the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.28 m) in length. An owner or operator of any vessel may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake—up to 10,000 lb (4,536 kg); butterfish; dogfish; herring; Atlantic mackerel; ocean pout; scup; squid; and red hake; except for the following allowable incidental species (bycatch, as the term is used elsewhere in this part) with the restrictions noted: Longhorn sculpin; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter.

(C) Small-mesh areas 1 and 2 are defined by straight lines connecting the following points in the order stated (copies of a chart depicting these areas are available from the Regional Administrator upon request (see Table 1 to § 600.502 of this chapter)):

#### SMALL MESH AREA 1

Point	N. Lat.	W. Long.
SM1 .....	43°03'	70°27'
SM2 .....	42°57'	70°22'
SM3 .....	42°47'	70°32'
SM4 .....	42°45'	70°29'
SM5 .....	42°43'	70°32'
SM6 .....	42°44'	70°39'
SM7 .....	42°49'	70°43'
SM8 .....	42°50'	70°41'
SM9 .....	42°53'	70°43'
SM10 .....	42°55'	70°40'
SM11 .....	42°59'	70°32'
SM1 .....	43°03'	70°27'

#### SMALL-MESH AREA 2

Point	N. Lat.	W. Long.
SM13 .....	43°05.6'	69°55.0'
SM14 .....	43°10.1'	69°43.3'

#### SMALL-MESH AREA 2—Continued

Point	N. Lat.	W. Long.
SM15 .....	42°49.5'	69°40.0'
SM16 .....	42°41.5'	69°40.0'
SM17 .....	42°36.6'	69°55.0'
SM13 .....	43°05.6'	69°55.0'

(ii) *Raised footrope trawl*. Vessels fishing with trawl gear must configure it in such a way that, when towed, the gear is not in contact with the ocean bottom. Vessels are presumed to be fishing in such a manner if their trawl gear is designed as specified in paragraphs (j)(9)(ii)(A) through (D) of this section and is towed so that it does not come into contact with the ocean bottom:

(A) Eight-inch (20.3-cm) diameter floats must be attached to the entire length of the headrope with a maximum spacing of 4 ft (121.9 cm) between floats;

(B) The ground gear must all be bare wire not larger than 1/2-inch (1.2-cm) for the top leg, not larger than 5/8-inch (1.6-cm) for the bottom leg, and not larger than 3/4-inch (1.9-cm) for the ground cables. The top and bottom legs must be equal in length, with no extensions. The total length of ground cables and legs must not be greater than 40 fathoms from the doors to wingends.

(C) The footrope must be longer than the length of the headrope, but not more than 20 ft (6.1 m) longer than the length of the headrope. The footrope must be rigged so that it does not contact the ocean bottom while fishing.

(D) The raised footrope trawl may be used with or without a chain sweep. If used without a chain sweep, the drop chains must be a maximum of 3/8-inch (0.95-cm) diameter bare chain and must be hung from the center of the footrope and each corner (the quarter, or the junction of the bottom wing to the belly at the footrope). Drop chains must be hung at intervals of 8 ft (2.4 m) along the footrope from the corners to the wing ends. If used with a chain sweep, the sweep must be rigged so it is behind and below the footrope, and the footrope is off the bottom. This is accomplished by having the sweep longer than the footrope and having long drop chains attaching the sweep to the footrope at regular intervals. The forward end of the sweep and footrope must be connected to the bottom leg at the same point. This attachment, in conjunction with the headrope flotation, keeps the footrope off the bottom. The sweep and its rigging, including drop chains, must be made entirely of bare chain with a maximum diameter of 5/16 inches (0.8 cm). No wrapping or cookies are

allowed on the drop chains or sweep. The total length of the sweep must be at least 7 ft (2.1 m) longer than the total length of the footrope, or 3.5 ft (1.1 m) longer on each side. Drop chains must connect the footrope to the sweep chain, and the length of each drop chain must be at least 42 inches (106.7 cm). One drop chain must be hung from the center of the footrope to the center of the sweep, and one drop chain must be hung from each corner. The attachment points of each drop chain on the sweep and the footrope must be the same distance from the center drop chain attachments. Drop chains must be hung at intervals of 8 ft (2.4 m) from the corners toward the wing ends. The distance of the drop chain that is nearest the wing end to the end of the footrope may differ from net to net. However, the sweep must be at least 3.5 ft (1.1 m) longer than the footrope between the drop chain closest to the wing ends and the end of the sweep that attaches to the wing end.

(10) *Nantucket Shoals dogfish fishery exemption area.* Vessels subject to the minimum mesh size restrictions specified in paragraphs (j)(3) or (4) of this section may fish with, use, or possess nets of mesh smaller than the minimum size specified in the Nantucket Shoals Dogfish Fishery Exemption Area, if the vessel complies with the requirements specified in paragraph (j)(10)(i) of this section. The Nantucket Shoals Dogfish Fishery Exemption Area (copies of a map depicting this area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

**NANTUCKET SHOALS DOGFISH  
EXEMPTION AREA**

Point	N. Lat.	W. Long.
NS1 .....	41°45'	70°00'
NS2 .....	41°45'	69°20'
NS3 .....	41°30'	69°20'
CL1 .....	41°30'	69°23'
NS5 .....	41°26.5'	69°20'
NS6 .....	40°50'	69°20'
NS7 .....	40°50'	70°00'
NS1 .....	41°45'	70°00'

(i) *Requirements.* (A) A vessel fishing in the Nantucket Shoals Dogfish Fishery Exemption Area under the exemption must have on board a letter of authorization issued by the Regional Administrator and may not fish for, possess on board, or land any species of fish other than dogfish, except as provided under paragraph (j)(10)(i)(D) of this section.

(B) Fishing is confined to June 1 through October 15.

(C) When transiting the GOM or GB Regulated Mesh Areas, specified under paragraph (a) of this section, any nets with a mesh size smaller than the minimum mesh size specified in paragraph (a) of this section must be stowed and unavailable for immediate use in accordance with § 648.23(b).

(D)(1) Through April 30, 2003, the following species may be retained, with the restrictions noted, as allowable incidental species in the Nantucket Shoals Dogfish Fishery Exemption Area: Longhorn sculpin; silver hake—up to 200 lb (90.72 kg); monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole-weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less, unless otherwise restricted by landing limits specified in § 697.17 of this chapter; and skate or skate parts—up to 10 percent, by weight, of all other species on board.

(2) Beginning May 1, 2003, all nets must comply with a minimum mesh size of 3-inch (7.62-cm) square or diamond mesh, counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.28 m) in length and counting the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.28 m) in length. Vessels may retain the allowable incidental species listed in paragraph (j)(10)(i)(D)(1) of this section.

(E) A vessel fishing in the Nantucket Shoals Dogfish Fishery Exemption Area under the exemption must comply with any additional gear restrictions specified in the letter of authorization issued by the Regional Administrator.

(ii) *Sea sampling.* The Regional Administrator may conduct periodic sea sampling to determine if there is a need to change the area or season designation, and to evaluate the bycatch of regulated species.

(11) *Scallop Dredge Fishery Exemption within the Gulf of Maine (GOM) Small Mesh Northern Shrimp Fishery Exemption Area.* Unless otherwise prohibited in § 648.81, vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 648.10, or that have used up their DAS allocations, and vessels issued a general scallop permit, may fish in the GOM Small Mesh Northern Shrimp Fishery Exemption Area when not under a NE multispecies

DAS, providing the vessel complies with the requirements specified in paragraph (j)(11)(i) of this section. The GOM Scallop Dredge Fishery Exemption Area is the same as the area defined in paragraph (j)(5) of this section and designated as the Small Mesh Northern Shrimp Fishery Exemption Area.

(i) *Requirements.* (A) A vessel fishing in the GOM Scallop Dredge Fishery Exemption Area specified in paragraph (j)(11) of this section may not fish for, possess on board, or land any species of fish other than Atlantic sea scallops.

(B) The combined dredge width in use by or in possession on board vessels fishing in the GOM Scallop Dredge Fishery Exemption Area shall not exceed 10.5 ft (3.2 m), measured at the widest point in the bail of the dredge.

(C) The exemption does not apply to the Western GOM Area Closure specified in § 648.81(u).

(ii) [Reserved]

(12) *Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area.* A vessel may fish with a dredge in the Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area, provided that any dredge on board the vessel does not exceed 8 ft (2.44 m), measured at the widest point in the bail of the dredge, and the vessel does not fish for, harvest, possess, or land any species of fish other than mussels and sea urchins. The area coordinates of the Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area are the same coordinates as those of the Nantucket Shoals Dogfish Fishery Exemption Area specified under paragraph (j)(10) of this section.

(13) *GOM/GB Monkfish Gillnet Exemption.* Unless otherwise prohibited in § 648.81, a vessel may fish with gillnets in the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area when not under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (j)(13)(i) of this section. The GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area is defined by straight lines connecting the following points in the order stated:

N. Lat.	W. Long.
41°35' .....	70°00'
42°49.5' .....	70°00'
42°49.5' .....	69°40'
43°12' .....	69°00'
(1) .....	69°00'

<sup>1</sup> Due north to Maine shoreline.

(i) *Requirements.* (A) A vessel fishing under this exemption may not fish for, possess on board, or land any species of fish other than monkfish, or lobsters in an amount not to exceed 10 percent by

weight of the total catch on board, or 200 lobsters, whichever is less.

(B) All gillnets must have a minimum mesh size of 10-inch (25.4-cm) diamond mesh throughout the net.

(C) Fishing is confined to July 1 through September 14.

(ii) [Reserved]

(14) *GOM/GB Dogfish Gillnet*

**Exemption.** Unless otherwise prohibited in § 648.81, a vessel may fish with gillnets in the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area when not under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (j)(14)(i) of this section. The area coordinates of the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area are specified in paragraph (j)(13) of this section.

(i) **Requirements.** (A) A vessel fishing under this exemption may not fish for, possess on board, or land any species of fish other than dogfish, or lobsters in an amount not to exceed 10 percent by weight of the total catch on board, or 200 lobsters, whichever is less.

(B) All gillnets must have a minimum mesh size of 6.5-inch (16.5-cm) diamond mesh throughout the net.

(C) Fishing is confined to July 1 through August 31.

(ii) [Reserved]

(15) *Raised Footrope Trawl Exempted Whiting Fishery.* Vessels subject to the minimum mesh size restrictions specified in paragraphs (j)(3) or (4) of this section may fish with, use, or possess nets in the Raised Footrope Trawl Whiting Fishery area with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraph (j)(15)(i) of this section. The Raised Footrope Trawl Whiting Fishery area (copies of a map depicting the area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

**RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION**

Point	N. Lat.	W. Long.
RF 1 .....	42°01.9'	70°14.7'
RF 2 .....	41°59.45'	70°23.65'
RF 3 .....	42°07.85'	70°30.1'
RF 4 .....	42°15.05'	70°08.8'
RF 5 .....	42°08.35'	70°04.05'
RF 6 .....	42°04.75'	70°16.95'
RF 1 .....	42°01.9'	70°14.7'

(i) **Requirements.** (A) A vessel fishing in the Raised Footrope Trawl Whiting Fishery under this exemption must have on board a valid letter of authorization issued by the Regional Administrator.

To obtain a letter of authorization, vessel owners must write to or call during normal business hours the Northeast Region Permit Office and provide the vessel name, owner name, permit number, and the desired period of time that the vessel will be enrolled. Since letters of authorization are effective the day after they are requested, vessel owners should allow appropriate processing and mailing time. To withdraw from a category, vessel owners must write to or call the Northeast Region Permit Office. Withdrawals are effective the day after the date of request. Withdrawals may occur after a minimum of 7 days of enrollment.

(B) Through April 30, 2003, all nets must comply with a minimum mesh size of 2.5-inch (6.35-cm) square or diamond mesh, subject to the restrictions as specified in paragraph (j)(15)(i)(D) of this section. An owner or operator of a vessel enrolled in the raised footrope whiting fishery may not fish for, possess on board, or land any species of fish other than whiting and offshore hake subject to the applicable possession limits as specified in § 648.86, except for the following allowable incidental species: Red hake; butterfish; dogfish; herring; mackerel; scup; and squid.

(C) Beginning May 1, 2003, in addition to the requirements specified in paragraph (j)(15)(i)(B) of this section, all nets must comply with a minimum mesh size of 3-inch (7.62-cm) square or diamond mesh, subject to the restrictions as specified in paragraph (j)(15)(i)(D) of this section. An owner or operator of any vessel enrolled in the raised footrope whiting fishery may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake—up to 10,000 lb (4,536 kg); red hake; butterfish; dogfish; herring; mackerel; scup; and squid.

(D) All nets must comply with the minimum mesh sizes specified in paragraphs (j)(15)(i)(B) and (C) of this section. Counting from the terminus of the net, the minimum mesh size is applied to the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.28 m) in length and is applied to the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.28 m) in length.

(E) Raised footrope trawl gear is required and must be configured as specified in paragraphs (j)(9)(ii)(A) through (D) of this section.

(F) Fishing may only occur from September 1 through November 20 of each fishing year.

(G) A vessel enrolled in the Raised Footrope Trawl Whiting Fishery may fish for small-mesh multispecies in exempted fisheries outside of the Raised Footrope Trawl Whiting Fishery exemption area, provided that the vessel complies with the more restrictive gear, possession limit and other requirements specified in the regulations of that exempted fishery for the entire participation period specified on the vessel's letter of authorization. For example, a vessel may fish in both the Raised Footrope Trawl Whiting Fishery and the Cultivator Shoal Whiting Fishery Exemption Area and would be restricted to a minimum mesh size of 3 inches (7.62 cm), as required in the Cultivator Shoal Whiting Fishery Exemption Area, the use of the raised footrope trawl, and the catch and bycatch restrictions of the Raised Footrope Trawl Whiting Fishery, except for red hake, which is restricted to 10 percent of the total catch under the Cultivator Shoal Whiting Fishery.

(ii) **Sea sampling.** The Regional Administrator shall conduct periodic sea sampling to evaluate the bycatch of regulated species.

(k) *Southern New England (SNE) Regulated Mesh Area*—(1) **Area definition.** The SNE Regulated Mesh Area (copies of a map depicting this area are available from the Regional Administrator upon request) is that area:

(i) Bounded on the east by straight lines connecting the following points in the order stated:

**SOUTHERN NEW ENGLAND REGULATED MESH AREA**

Point	N. Lat.	W. Long.
G5 .....	41°18.6'	66°24.8'
G6 .....	40°55.5'	66°38'
G7 .....	40°45.5'	68°00'
G8 .....	40°37'	68°00'
G9 .....	40°30.5'	69°00'
NL3 .....	40°22.7'	69°00'
NL2 .....	40°18.7'	69°40'
NL1 .....	40°50'	69°40'
G11 .....	40°50'	70°00'
G12 .....		70°00' <sup>1</sup>

<sup>1</sup> Northward to its intersection with the shoreline of mainland Massachusetts.

(ii) Bounded on the west by the eastern boundary of the Mid-Atlantic Regulated Mesh Area.

(2) **Gear restrictions**—(i) **Minimum mesh size.** Except as provided in paragraphs (k)(2)(i) and (ii) of this section, and unless otherwise restricted under paragraph (k)(2)(iii) of this section, the minimum mesh size for any trawl net, sink gillnet, Scottish seine, purse seine or midwater trawl, not stowed and not available for immediate

use in accordance with § 648.23(b), by a vessel fishing under a DAS in the NE multispecies DAS program in the SNE regulated mesh area, is 6-inch (15.24-cm) diamond mesh or 6.5-inch (16.51-cm) square mesh or any combination thereof, throughout the entire net. This minimum mesh size restriction does not apply to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(ii) *Other restrictions and exemptions.* Vessels are prohibited from fishing in the SNE Regulated Mesh Area except if fishing with exempted gear (as defined under this part) or under the exemptions specified in paragraphs (e), (k)(3), (k)(5) through (9), (l), (o), and (p) of this section, or if fishing under a NE multispecies DAS, if fishing under the small vessel exemption specified in § 648.82(b)(3), or if fishing under a scallop state waters exemption specified in § 648.54, or if fishing under a scallop DAS in accordance with paragraph (o) of this section, or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit. Any gear on a vessel, or used by a vessel, in this area must be authorized under one of these exemptions or must be stowed as specified in § 648.23(b).

(iii) *Large Mesh vessels.* When fishing in the SNE regulated mesh area, the minimum mesh size for any sink gillnet on a vessel, or used by a vessel, fishing under a DAS in the Large Mesh DAS program specified in § 648.82(b)(8) and (9) is 7-inch (17.78-cm) diamond mesh throughout the entire net. The minimum mesh size for any trawl net on a vessel or used by a vessel fishing under a DAS in the Large Mesh DAS program is 8-inch (20.32-cm) diamond mesh throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(3) *Exemptions—(i) Species exemptions.* (A) Through April 30, 2003, owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraph (b)(2) of this section may fish for, harvest, possess, or land butterfish, dogfish (trawl only), herring, Atlantic mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake and offshore hake, and weakfish with nets of a mesh size smaller than the minimum size specified in the SNE Regulated Mesh Area, provided such vessels comply with requirements specified in paragraph (k)(3)(ii) of this section and

with the mesh size and possession limit restrictions specified under § 648.86(d).

(B) Beginning May 1, 2003, owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraph (k)(2) of this section may not use nets with mesh size less than 3 inches (7.62 cm), unless exempted pursuant to paragraph (k)(4) of this section, and may fish for, harvest, possess, or land butterfish, dogfish (trawl only), herring, Atlantic mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake and offshore hake—up to 10,000 lb (4,536 kg), and weakfish with nets of a mesh size smaller than the minimum size specified in the SNE Regulated Mesh Area, provided such vessels comply with requirements specified in paragraph (k)(3)(ii) of this section and with the possession limit restrictions specified under § 648.86. Nets may not have a mesh size of less than 3-inch (7.62-cm) square or diamond mesh counting the first 100 meshes (200 bars in the case of square mesh) from the terminus of the net for vessels greater than 60 ft (18.28 m) in length, and counting the first 50 meshes (100 bars in the case of square mesh) from the terminus of the net for vessels less than or equal to 60 ft (18.28 m) in length.

(ii) *Possession and net stowage requirements.* Vessels may possess regulated species while in possession of nets with mesh smaller than the minimum size specified in paragraph (k)(2)(i) of this section, provided that such nets are stowed and are not available for immediate use in accordance with § 648.23(b), and provided that regulated species were not harvested by nets of mesh size smaller than the minimum mesh size specified in paragraph (k)(2)(i) of this section. Vessels fishing for the exempted species identified in paragraph (k)(3)(i) of this section may also possess and retain the following species, with the restrictions noted, as incidental take to these exempted fisheries: Conger eels; sea robins; black sea bass; red hake; tautog (blackfish); blowfish; cunner; John Dory; mullet; bluefish; tilefish; longhorn sculpin; fourspot flounder; alewife; hickory shad; American shad; blueback herring; sea ravens; Atlantic croaker; spot; swordfish; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board or up to 50 lb (23 kg) tail-weight/166 lb (75 kg) whole weight of monkfish per trip, as specified in § 648.94(c)(4), whichever is less; American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less; and skate and skate parts—up to 10

percent, by weight, of all other species on board.

(4) *Addition or deletion of exemptions.* Same as under paragraph (j)(8) of this section.

(5) *SNE Monkfish and Skate Trawl Exemption Area.* A vessel may fish with trawl gear in the SNE Monkfish and Skate Trawl Fishery Exemption Area when not operating under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (k)(5)(i) of this section. The SNE Monkfish and Skate Trawl Fishery Exemption Area is defined as the area bounded on the north by a line extending eastward along 40°10' N. lat., and bounded on the west by the eastern boundary of the Mid-Atlantic Regulated Mesh Area.

(i) *Requirements.* (A) A vessel fishing under this exemption may only fish for, possess on board, or land monkfish, skates, and the incidentally caught species and amounts specified in paragraph (k)(3) of this section.

(B) All trawl nets must have a minimum mesh size of 8-inch (20.3-cm) square or diamond mesh throughout the codend for at least 45 continuous meshes forward of the terminus of the net.

(ii) [Reserved]

(6) *SNE Monkfish and Skate Gillnet Exemption Area.* A vessel may fish with gillnet gear in the SNE Monkfish and Skate Gillnet Fishery Exemption Area when not operating under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (k)(6)(i) of this section. The SNE Monkfish and Skate Gillnet Fishery Exemption Area is defined by a line running from the Massachusetts shoreline at 41°35' N. lat. and 70°00' W. long., south to its intersection with the outer boundary of the EEZ, southwesterly along the outer boundary of the EEZ, and bounded on the west by the eastern boundary of the Mid-Atlantic Regulated Mesh Area.

(i) *Requirements.* (A) A vessel fishing under this exemption may only fish for, possess on board, or land monkfish, skates, and the bycatch species and amounts specified in paragraph (b)(3) of this section.

(B) All gillnets must have a minimum mesh size of 10-inch (25.4-cm) diamond mesh throughout the net.

(C) All nets with a mesh size smaller than the minimum mesh size specified in paragraph (k)(6)(i)(B) of this section must be stowed as specified in § 648.23(b).

(ii) [Reserved]

(7) *SNE Dogfish Gillnet Exemption Area.* A gillnet vessel may fish in the SNE Dogfish Gillnet Fishery Exemption

Area when not operating under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (k)(7)(i) of this section. The SNE Dogfish Gillnet Fishery Exemption Area is defined by a line running from the Massachusetts shoreline at 41°35' N. lat. and 70°00' W. long. south to its intersection with the outer boundary of the EEZ, southwesterly along the outer boundary of the EEZ, and bounded on the west by the eastern boundary of the Mid-Atlantic Regulated Mesh Area.

(i) *Requirements.* (A) A vessel fishing under this exemption may only fish for, possess on board, or land dogfish and the bycatch species and amounts specified in paragraph (k)(3) of this section.

(B) All gillnets must have a minimum mesh size of 6-inch (15.24-cm) diamond mesh throughout the net.

(C) Fishing is confined to May 1 through October 31.

(ii) [Reserved]

(8) *SNE Mussel and Sea Urchin Dredge Exemption.* A vessel may fish with a dredge in the SNE Regulated Mesh Area, provided that any dredge on board the vessel does not exceed 8 ft (2.44 m) measured at the widest point in the bail of the dredge, and the vessel does not fish for, harvest, possess, or land any species of fish other than mussels and sea urchins.

(9) *SNE Little Tunny Gillnet Exemption Area.* A vessel may fish with gillnet gear in the SNE Little Tunny Gillnet Exemption Area when not operating under a NE multispecies DAS with mesh size smaller than the minimum required in the SNE Regulated Mesh Area, if the vessel complies with the requirements specified in paragraph (k)(9)(i) of this section. The SNE Little Tunny Gillnet Exemption Area is defined by a line running from the Rhode Island shoreline at 41°18.2' N. lat. and 71°51.5' W. long. (Watch Hill, RI) southwesterly through Fishers Island, NY; to Race Point, Fishers Island, NY; and from Race Point, Fishers Island, NY; southeasterly to 41°06.5' N. lat. and 71°50.2' W. long.; east-northeast through Block Island, RI, to 41°15' N. lat. and 71°07' W. long.; then due north to the intersection of the RI-MA shoreline.

(i) *Requirements.* (A) A vessel fishing under this exemption may fish only for, possess on board, or land little tunny and the allowable incidental species and amounts specified in paragraph (k)(3) and, if applicable, paragraph (k)(9)(i)(B) of this section. Vessels fishing under this exemption may not possess regulated species.

(B) A vessel may possess bonito as an allowable incidental species, provided

an exempted fishing permit is obtained from the Highly Migratory Species Division (HMS), Office of Sustainable Fisheries, NMFS, Gloucester, MA. The HMS reserves the authority to cap the number of participants who retain bonito as allowable incidental species should conservation and/or protected resource concerns develop.

(C) The vessel must have a letter of authorization issued by the Regional Administrator on board.

(D) All gillnets must have a minimum mesh size of 5.5-inch (13.97-cm) diamond mesh throughout the net.

(E) All nets with a mesh size smaller than the minimum mesh size specified in paragraph (k)(9)(i)(D) of this section must be stowed in accordance with one of the methods described under § 648.23(b) while fishing under this exemption.

(F) Fishing is confined to September 1 through October 31.

(ii) The Regional Administrator shall conduct periodic sea sampling to evaluate the likelihood of gear interactions with protected resources.

(l) *Mid-Atlantic Regulated Mesh Area*—(1) *Area definition.* The Mid-Atlantic Regulated Mesh Area is that area bounded on the east by a line running from the Rhode Island shoreline at 41°18.2' N. lat. and 71°51.5' W. long. (Watch Hill, RI), southwesterly through Fishers Island, NY; to Race Point, Fishers Island, NY; and from Race Point, Fishers Island, NY, southeasterly to the intersection of the 3-nautical mile line east of Montauk Point; southwesterly along the 3-nautical mile line to the intersection of 72°30' W. long.; and south along that line to the intersection of the outer boundary of the EEZ.

(2) *Gear restrictions*—(i) *Minimum mesh size.* Except as provided in this paragraph (l)(2)(i), and unless otherwise restricted under paragraph (l)(2)(ii) of this section, the minimum mesh size for any trawl net, sink gillnet, Scottish seine, purse seine, or midwater trawl in use or available for immediate use, as described in § 648.23(b), by a vessel fishing under a DAS in the NE multispecies DAS program in the Mid-Atlantic Regulated Mesh Area shall be that specified by § 648.104(a). This restriction does not apply to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(ii) *Large Mesh vessels.* When fishing in the MA Regulated Mesh Area, the minimum mesh size for any sink gillnet on a vessel, or used by a vessel, fishing under a DAS in the Large Mesh DAS program specified in § 648.82(b)(8) and (9) is 7-inch (17.78-cm) diamond mesh

throughout the entire net. The minimum mesh size for any trawl net on a vessel, or used by a vessel, fishing under a DAS in the Large Mesh DAS program is 8-inch (20.32-cm) diamond mesh throughout the net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(3) *Net stowage exemption.* Vessels may possess regulated species while in possession of nets with mesh smaller than the minimum size specified in paragraph (l)(2)(i) of this section, provided that such nets are stowed and are not available for immediate use in accordance with § 648.23(b), and provided that regulated species were not harvested by nets of mesh size smaller than the minimum mesh size specified in paragraph (l)(2)(i) of this section.

(4) *Addition or deletion of exemptions.* Same as under paragraph (j)(8) of this section.

(m) *Midwater trawl gear exemption.* Fishing may take place throughout the fishing year with midwater trawl gear of mesh size less than the applicable minimum size specified in this section, provided that:

(1) Midwater trawl gear is used exclusively;

(2) When fishing under this exemption in the GOM or GB Regulated Mesh Areas, as defined in § 648.80(j)(1) and (2), and in the Mid-Atlantic Regulated Mesh Area described in § 648.81(l)(1), the vessel has on board a letter of authorization issued by the Regional Administrator, and complies with all restrictions and conditions thereof;

(3) The vessel only fishes for, possesses, or lands Atlantic herring, blueback herring, or mackerel in areas north of 42°20' N. lat. and in the areas described in § 648.81(j)(1) and (2), (k)(1), and (l)(1); and Atlantic herring, blueback herring, mackerel, or squid in all other areas south of 42°20' N. lat.;

(4) The vessel does not fish for, possess, or land NE multispecies; and

(5) The vessel carries a NMFS-approved sea sampler/observer, if requested by the Regional Administrator.

(n) *Restrictions on gear and methods of fishing*—(1) *Net obstruction or constriction.* Except as provided in paragraph (n)(5) of this section, a fishing vessel subject to minimum mesh size restrictions shall not use any device or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of a trawl net, except that one splitting strap and one



bull rope (if present), consisting of line and rope no more than 3 inches (7.62 cm) in diameter, may be used if such splitting strap and/or bull rope does not constrict in any manner the top of the trawl net. "The top of the trawl net" means the 50 percent of the net that (in a hypothetical situation) is not in contact with the ocean bottom during a tow if the net were laid flat on the ocean floor. For the purpose of this paragraph (n)(1), head ropes are not considered part of the top of the trawl net.

(2) *Net obstruction or constriction.* (i) Except as provided in paragraph (n)(5) of this section, a fishing vessel may not use any mesh configuration, mesh construction, or other means on or in the top of the net subject to minimum mesh size restrictions, as defined in paragraph (n)(1) of this section, if it obstructs the meshes of the net in any manner.

(ii) A fishing vessel may not use a net capable of catching multispecies if the bars entering or exiting the knots twist around each other.

(3) *Pair trawl prohibition.* No vessel may fish for NE multispecies while pair trawling, or possess or land NE multispecies that have been harvested by means of pair trawling.

(4) *Brush-sweep trawl prohibition.* No vessel may fish for, possess, or land NE multispecies while fishing with, or while in possession of, brush-sweep trawl gear.

(5) *Net strengthener restrictions when fishing for or possessing small-mesh multispecies—(i) Nets of mesh size less than 2.5 inches (6.35 cm).* A vessel lawfully fishing for small-mesh multispecies in the GOM, GB, SNE, or Mid-Atlantic Regulated Mesh Areas, as defined in paragraphs (j), (k), and (l) of this section, with nets of mesh size smaller than 2.5 inches (6.35 cm), as measured by methods specified in § 648.80(f), may use net strengtheners (covers as described at § 648.23(d)), provided that the net strengthener for nets of mesh size smaller than 2.5 inches (6.35 cm) complies with the provisions specified under § 648.23(d).

(ii) *Nets of mesh size equal to or greater than 2.5 inches (6.35 cm) but less than 3 inches (7.62).* A vessel lawfully fishing for small-mesh multispecies in the GOM, GB, SNE, or Mid-Atlantic Regulated Mesh Areas, as defined in paragraphs (j), (k), and (l) of this section, with nets with mesh size equal to or greater than 2.5 inches (6.35 cm) but less than 3 inches (7.62 cm) (as measured by methods specified in § 648.80(f), and as applied to the part of the net specified in paragraph (d)(1)(iv) of this section) may use a net strengthener (i.e., outside net), provided

the net strengthener does not have an effective mesh opening of less than 6 inches (15.24 cm), diamond or square mesh, as measured by methods specified in § 648.80(f). The inside net (as applied to the part of the net specified in paragraph (d)(1)(iv) of this section) must not be more than 2 ft (61 cm) longer than the outside net, must be the same circumference or smaller than the smallest circumference of the outside net, and must be the same mesh configuration (i.e., both square or both diamond mesh) as the outside net.

(o) *Scallop vessels.* (1) Except as provided in paragraph (o)(2) of this section, a scallop vessel that possesses a limited access scallop permit and either a NE multispecies combination vessel permit or a scallop multispecies possession limit permit, and that is fishing under a scallop DAS allocated under § 648.53, may possess and land up to 300 lb (136.1 kg) of regulated species per trip, provided that the amount of cod on board does not exceed the daily cod limit specified in § 648.86(h), up to a maximum of 300 lb (136.1 kg) of cod for the entire trip, and provided the vessel has at least one standard tote on board, unless otherwise restricted by § 648.86(a)(2).

(2) Combination vessels fishing under a NE multispecies DAS are subject to the gear restriction specified in § 648.80 and may possess and land unlimited amounts of regulated species, unless otherwise restricted by § 648.86. Such vessels may simultaneously fish under a scallop DAS.

(p) *State waters winter flounder exemption.* Any vessel issued a NE multispecies permit may fish for, possess, or land winter flounder while fishing with nets of mesh smaller than the minimum size specified in paragraphs (j)(2), (k)(2), and (l)(2) of this section, provided that:

(1) The vessel has on board a certificate approved by the Regional Administrator and issued by the state agency authorizing the vessel's participation in the state's winter flounder fishing program and is in compliance with the applicable state laws pertaining to minimum mesh size for winter flounder.

(2) Fishing is conducted exclusively in the waters of the state from which the certificate was obtained.

(3) The state's winter flounder plan has been approved by the Commission as being in compliance with the Commission's winter flounder fishery management plan.

(4) The state elects, by a letter to the Regional Administrator, to participate in the exemption program described by this section.

(5) The vessel does not enter or transit the EEZ.

(6) The vessel does not enter or transit the waters of another state, unless such other state is participating in the exemption program described by this section and the vessel is enrolled in that state's program.

(7) The vessel, when not fishing under the DAS program, does not fish for, possess, or land more than 500 lb (226.8 kg) of winter flounder, and has at least one standard tote on board.

(8) The vessel does not fish for, possess, or land any species of fish other than winter flounder and the exempted small mesh species specified under paragraphs (j)(5)(i), (j)(9)(i), (k)(3), and (l)(3) of this section when fishing in the areas specified under paragraphs (j)(5), (j)(9), (k)(1), and (l)(1) of this section, respectively. Vessels fishing under this exemption in New York and Connecticut state waters may also possess and retain skate as incidental take in this fishery.

(9) The vessel complies with all other applicable requirements.

7. In § 648.81, paragraphs (a) through (i), (n) and (o) are suspended, and paragraphs (p) through (w) are added to read as follows:

#### § 648.81 Closed areas.

\* \* \* \* \*

(p) *Closed Area I.* (1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Closed Area I (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (p)(2) and (s) of this section:

#### CLOSED AREA 1

Point	N. Lat.	W. Long.
CI1 .....	41°30'	69°23'
CI2 .....	40°45'	68°45'
CI3 .....	40°45'	68°30'
CI4 .....	41°30'	68°30'
CI1 .....	41°30'	69°23'

(2) Paragraph (p)(1) of this section does not apply to persons on fishing vessels or fishing vessels—

(i) Fishing with or using pot gear designed and used to take lobsters, or pot gear designed and used to take hagfish, provided that there is no retention of regulated species and no other gear on board capable of catching NE multispecies; or

(ii) Fishing with or using pelagic longline gear or pelagic hook- and line gear or harpoon gear, provided that



there is no retention of regulated species, and provided that there is no other gear on board capable of catching NE multispecies; or

(iii) Fishing with pelagic midwater trawl gear, consistent with § 648.80(d), provided that the Regional Administrator shall review information pertaining to the bycatch of regulated NE multispecies and, if the Regional Administrator determines, on the basis of sea sampling data or other credible information for this fishery, that the bycatch of regulated multispecies exceeds, or is likely to exceed, 1 percent of herring and mackerel harvested, by weight, in the fishery or by any individual fishing operation, the Regional Administrator may place restrictions and conditions in the letter of authorization for any or all individual fishing operations or, after consulting with the Council, suspend or prohibit any or all midwater trawl activities in the closed areas.

(q) *Closed Area II.* (1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Closed Area II (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated, except as specified in paragraph (q)(2) of this section:

#### CLOSED AREA II

Point	N. Lat.	W. Long.
CI1 ..... 41°00'		67°20'
CI2 ..... 41°00'		66°35.8'
G5 ..... 41°18.6'		66°24.8' (the U.S.-Canada Maritime Boundary)
CI3 ..... 42°22'		67°20' (the U.S.-Canada Maritime Boundary)
CI1 ..... 41°00'		67°20'

(2) Paragraph (q)(1) of this section does not apply to persons on fishing vessels or fishing vessels fishing with gears as described in paragraph (p)(2) of this section, or that are transiting the area, provided:

(i) The operator has determined that there is a compelling safety reason; and

(ii) The vessel's fishing gear is stowed in accordance with the provisions of § 648.23(b).

(r) *Nantucket Lightship Closed Area.*

(1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as the Nantucket Lightship Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines

connecting the following points in the order stated, except as specified in paragraphs (r)(2) and (s) of this section:

#### NANTUCKET LIGHTSHIP CLOSED AREA

Point	N. Lat.	W. Long.
G10 ..... 40°50'		69°00'
CN1 ..... 40°20'		69°00'
CN2 ..... 40°20'		70°20'
CN3 ..... 40°50'		70°20'
G10 ..... 40°50'		69°00'

(2) Paragraph (r)(1) of this section does not apply to persons on fishing vessels or fishing vessels:

(i) Fishing with gears as described in paragraph (p)(2) of this section;

(ii) Fishing with or using dredge gear designed and used to take surf clams or ocean quahogs, provided that there is no retention of regulated species and no other gear on board capable of catching NE multispecies; or

(iii) Classified as charter, party or recreational vessel, provided that:

(A) If the vessel is a party or charter vessel, it has a letter of authorization issued by the Regional Administrator on board;

(B) Fish harvested or possessed by the vessel are not sold or intended for trade, barter or sale, regardless of where the fish are caught; and

(C) The vessel has no gear other than rod and reel or handline gear on board.

(s) *Transiting.* A vessel may transit Closed Area I, the Nantucket Lightship Closed Area, the GOM Rolling Closure Areas, the Eastern GOM Closure Area, the Western GOM Closure Area, and the Georges Bank Seasonal Closure Area, as defined in paragraphs (p)(1), (r)(1), (t)(1), (u)(1), (v)(1), and (w)(1), respectively, of this section, provided that it does not fish in these areas and its gear is stowed in accordance with the provisions of § 648.23(b). For gears for which stowage provisions are not specified at § 648.23(b), the gear must not be available for immediate use and must not have been recently used.

(t) *GOM Rolling Closure Areas.* (1) No fishing vessel or person on a fishing vessel may enter, fish in, or be in; and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in GOM Rolling Closure Areas III through V, as described in paragraphs (t)(1)(i) through (iii) of this section, for the times specified in paragraphs (t)(1)(i) through (iii) of this section, except as specified in paragraph (s) and paragraph (t)(2) of this section. A chart depicting these areas is available from the Regional Administrator upon request (see Table 1 to § 600.502 of this chapter).

(i) *Rolling Closure Area III.* From May 1 through May 31, the restrictions specified in paragraph (t)(1) of this section apply to Rolling Closure Area III, which is the area bounded by straight lines connecting the following points in the order stated:

#### ROLLING CLOSURE AREA III

[May 1–May 31]

Point	N. Lat.	W. Long.*
GM1 ..... 42°00'		(1)
GM2 ..... 42°00'		(2)
GM3 ..... 42°00'		(3)
GM4 ..... 42°00'		70°00'
GM23 ..... 42°30'		70°00'
GM6 ..... 42°30'		68°30'
GM14 ..... 43°30'		68°30'
GM10 ..... 43°30'		(4)

\* or other intersecting line:

<sup>1</sup> Massachusetts shoreline.

<sup>2</sup> Cape Cod shoreline on Cape Cod Bay.

<sup>3</sup> Cape Cod shoreline on the Atlantic Ocean.

<sup>4</sup> Maine shoreline.

(ii) *Rolling Closure Area IV.* From June 1 through June 30, the restrictions specified in paragraph (t)(1) of this section apply to Rolling Closure Area IV, which is the area bounded by straight lines connecting the following points in the order stated:

#### ROLLING CLOSURE AREA IV

[June 1–June 30]

Point	N. Lat.	W. Long.*
GM9 ..... 42°30'		(1)
GM23 ..... 42°30'		70°00'
GM17 ..... 43°30'		70°00'
GM19 ..... 43°00'		(2)
GM20 ..... 44°00'		(2)
GM21 ..... 44°00'		69°00'
GM22 ..... (3)		69°00'

\* or other intersecting line:

<sup>1</sup> Massachusetts shoreline.

<sup>2</sup> U.S.-Canada maritime boundary.

<sup>3</sup> Maine shoreline.

(2) Paragraph (t)(1) of this section does not apply to persons aboard fishing vessels or fishing vessels:

(i) That have not been issued a NE multispecies permit and that are fishing exclusively in state waters;

(ii) That are fishing with or using exempted gear as defined under this part, subject to the restrictions on midwater trawl gear in paragraph (p)(2)(iii) of this section, and excluding pelagic gillnet gear capable of catching NE multispecies, except for vessels fishing with a single pelagic gillnet, not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.62 cm), provided:

(A) The net is attached to the boat and fished in the upper two-thirds of the water column;

(B) The net is marked with the owner's name and vessel identification number;

(C) There is no retention of regulated species; and

(D) There is no other gear on board capable of catching NE multispecies;

(iii) That are fishing under charter/party or private recreational regulations, provided that:

(A) For vessels fishing under charter/party regulations, it has on board a letter of authorization issued by the Regional Administrator, which is valid through July 31, 2002;

(B) Fish harvested or possessed by the vessel are not sold or intended for trade, barter or sale, regardless of where the fish are caught;

(C) The vessel has no gear other than rod and reel or handline on board; and

(D) The vessel does not use any NE multispecies DAS during the entire period of enrollment.

(iv) That are fishing with or using scallop dredge gear when fishing under a scallop DAS or when lawfully fishing in the Scallop Dredge Fishery Exemption Area as described in § 648.80(j)(11), provided the vessel does not retain any regulated NE multispecies during a trip, or on any part of a trip.

(v) That are fishing in the Raised Footrope Trawl Exempted Whiting Fishery, as specified in § 648.80(j)(15), and in the Gulf of Maine Rolling Closure Area V, as specified in paragraph (t)(1)(iii) of this section.

(u) *Cashes Ledge Closure Area.* (1) No fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in, the area known as the Cashes Ledge Closure Area, as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (s) and (u)(2) of this section:

#### CASHES LEDGE CLOSURE AREA <sup>1</sup>

Point	N. Lat.	W. Long.
CL1 .....	43°07'	69°02'
CL2 .....	42°49.5'	68°46'
CL3 .....	42°46.5'	68°50.5'
CL4 .....	42°43.5'	68°58.5'
CL5 .....	42°42.5'	69°17.5'
CL6 .....	42°49.5'	69°26'
CL1 .....	43°07'	69°02'

<sup>1</sup> A chart depicting this area is available from the Regional Administrator upon request (see Table 1 to § 600.502 of this chapter).

(2) Paragraph (u)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraph (t)(2)(ii) and (iii) of this section.

(v) *Western GOM Area Closure.* (1) No fishing vessel or person on a fishing vessel may enter, fish in, or be in and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in, the area known as the Western GOM Area Closure (a chart depicting this area is available from the Regional Administrator upon request, see Table 1 in § 600.502), as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (s) and (v)(2) of this section:

#### WESTERN GOM AREA CLOSURE

Point	N. Lat.	W. Long.
WGM1 .....	42°15'	70°15'
WGM2 .....	42°15'	69°55'
WGM3 .....	43°15'	69°55'
WGM4 .....	43°15'	70°15'
WGM1 .....	42°15'	70°15'

(2) Paragraph (v)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraphs (t)(2)(ii) and (iii) of this section.

(w) *Georges Bank Seasonal Closure Area.* (1) From May 1 through May 31, no fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching multispecies, unless otherwise allowed in this part, may be in the area known as the Georges Bank Seasonal Closure Area, as defined as the straight lines connecting the following points in the order stated, except as specified in paragraphs (s) and (w)(2) of this section:

#### GEORGES BANK SEASONAL CLOSURE AREAS

[May 1–May 31]

Point	N. Lat.	W. Long.
GB1 .....	42°00'	( <sup>1</sup> )
GB2 .....	42°00'	67°20'
GB3 .....	41°30'	67°20'
GB4 .....	41°30'	69°23'
GB5 .....	( <sup>2</sup> )	69°00'
GB6 .....	41°00'	69°00'
GB7 .....	41°00'	70°00'
GB1 .....	42°00'	( <sup>1</sup> )

<sup>1</sup> Cape Cod shoreline on Atlantic Ocean.

<sup>2</sup> Western boundary of Closed Area 1.

(2) Paragraph (w)(1) of this section does not apply to persons on fishing vessels or to fishing vessels:

(i) That meet the criteria in paragraphs (t)(2)(i) or (ii) of this section;

(ii) That are fishing as charter/party or recreational vessels; or

(iii) That are fishing with or using scallop dredge gear when fishing under a scallop DAS or when lawfully fishing in the Scallop Dredge Fishery Exemption Area as described in § 648.80(j)(11), provided the vessel uses an 8-inch (20.3-cm) twine top and complies with the NE multispecies possession restrictions for scallop vessels specified at § 648.80(o).

8. In § 648.82, paragraphs (b)(6), (b)(7), (e), (k)(1)(i), (k)(1)(ii), and (k)(1)(v) are suspended; and paragraphs (b)(8), (b)(9), (k)(1)(viii), (k)(1)(ix), and (l) are added to read as follows:

#### § 648.82 Effort-control program for multispecies limited access vessels.

\* \* \* \* \*

(b) \* \* \*

(8) *Large Mesh Individual DAS category—(i) DAS allocation.* A vessel fishing under the Large Mesh Individual DAS category shall be allocated a DAS increase of 36 percent over the DAS allocations specified in paragraph (b)(1)(i) of this section (this includes the proration factor for 1996). To be eligible to fish under the Large Mesh Individual DAS category, a vessel, while fishing under this category, must fish with gillnet gear with a minimum size of 7-inch (17.78-cm) diamond mesh or with trawl gear with a minimum mesh size of 8-inch (20.32-cm) diamond mesh, for the entire year, as described under § 648.80(j)(3)(vi), (k)(2)(iii), and (l)(2)(ii).

(ii) *Initial assignment.* No vessel shall be initially assigned to the large Mesh Individual DAS category. Any vessel that is initially assigned to the Individual DAS, Fleet DAS, or Small Vessel category may request and be granted a switch into this category as specified in § 648.4(a)(1)(i)(I)(2).

(9) *Large Mesh Fleet DAS category—(i) DAS allocation.* A vessel fishing under the Large Mesh Fleet DAS category shall be allocated 120 DAS. To be eligible to fish under the Large Mesh Fleet DAS category, a vessel while fishing under this category must fish with gillnet gear with a minimum mesh size of 7-inch (17.78-cm) diamond mesh or trawl gear with a minimum mesh size of 8-inch (20.32-cm) diamond mesh, as described under § 648.80(j)(3)(vi), (k)(2)(iii), and (l)(2)(ii).

(ii) *Initial assignment.* No vessel shall be initially assigned to the Large Mesh Fleet DAS category. Any vessel that is initially assigned to the Individual DAS, Fleet DAS, or Small Vessel category may request and be granted a switch into this category as specified in § 648.4(a)(1)(i)(I)(2).

\* \* \* \* \*

(k) \* \* \*

(1) \* \* \*

(viii) *Number and size of nets.* NE multispecies limited access vessels fishing under a NE multispecies DAS may not fish with, haul, possess, or deploy more than 50 stand-up (roundfish) gillnets or 100 tie-down (flatfish) nets, except as provided in paragraph (k)(1)(i)(A) of this section. Vessels may fish any combination of roundfish and flatfish gillnets up to 100 nets, provided that the number of roundfish and flatfish gillnets does not exceed the limitations specified in this paragraph (k)(1)(viii). Nets may not be longer than 300 ft (91.44 m), or 50 fathoms, in length.

(A) Monkfish limited access vessels fishing with a valid monkfish Category C or D permit (i.e., vessels that possess both a monkfish and multispecies limited access permit) that obtain an annual designation as a Day gillnet vessel and that are fishing under a monkfish DAS, may fish up to 150 monkfish nets as specified in § 648.92(b)(8)(iv), provided the vessels comply with the minimum gillnet mesh size restriction of 10-inch (25.4-cm) mesh, as specified in § 648.91(c)(1)(iii).

(B) [Reserved]

(ix) *Removal of nets from water.* Gillnets must be removed from the water when the annual NE multispecies DAS allocated has been used or the maximum allowable quarterly NE multispecies DAS, as specified in paragraph (l) of this section, have been used.

\* \* \* \* \*

(l) *Accrual of DAS and restrictions on NE multispecies DAS use—(1) 15-hour minimum for trips of 3 to 15 hours.* For vessels fishing under a NE multispecies DAS, at any time during a fishing trip under a NE multispecies DAS, DAS shall be accrued in the following manner: For trips less than or equal to 3 hours in duration (from the time a vessel lawfully calls into the DAS program until the time it lawfully calls out of the DAS program), DAS will be deducted from the vessel's annual NE multispecies DAS allocation on an actual time basis (to the nearest minute) up to 3 hours. For trips greater than 3 hours and less than or equal to 15 hours, 15 hours will be deducted from the vessel's annual NE multispecies DAS allocation.

(2) *Quarterly restriction of NE multispecies DAS use.* Vessels may use no more than 25 percent of their annual NE multispecies DAS allocation, as specified under § 648.82(b) during the first quarter (May–July) of the fishing

year (e.g., for the period May through July, a Fleet DAS vessel would be restricted to using no more than 22 NE multispecies DAS from its annual allocation of 88 DAS). End-of-year carry-over NE multispecies DAS accrued from the May 1, 2001, through April 30, 2002, fishing year, as specified in § 648.82(a)(1), may not be included when determining 25 percent of a vessel's annual DAS allocation under this provision.

9. In § 648.86, paragraphs (b)(4), (d)(2), and (e)(2) are suspended, and paragraphs (b)(5), (d)(4), and (e)(4) are added to read as follows:

**§ 648.86 NE multispecies possession restrictions.**

\* \* \* \* \*

(b) \* \* \*

(5) *Exemption.* A vessel fishing under a NE multispecies DAS is exempt from the landing limit described in paragraph (h)(1) of this section when fishing south of the GOM Regulated Mesh Area as defined in § 648.80(j)(1), provided that it does not fish in the GOM Regulated Mesh Area for a minimum of 30 consecutive days (when fishing under the multispecies DAS program), and has on board an authorization letter issued by the Regional Administrator. Vessels exempt from the landing limit requirement may transit the GOM Regulated Mesh Area, provided that their gear is stowed in accordance with one of the provisions of § 648.23(b).

\* \* \* \* \*

(d) \* \* \*

(4) *Possession limit for vessels participating in the northern shrimp fishery.* Owners and operators of vessels participating in the Small-Mesh Northern Shrimp Fishery Exemption Area, as described in § 648.80(j)(5), with a vessel issued a valid Federal NE multispecies permit specified under § 648.4(a)(1), may possess and land silver hake and offshore hake, combined, up to an amount equal to the weight of shrimp on board, not to exceed 3,500 lb (1,588 kg). Silver hake and offshore hake on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

(e) \* \* \*

(4) *Possession limit for vessels participating in the northern shrimp fishery.* Owners or operators of vessels fishing in the Small-mesh Northern Shrimp Fishery Exemption Area under the exemption described in § 648.80(j)(5), with a vessel issued a valid Federal NE multispecies permit specified under § 648.4(a)(1), may possess on board or land silver hake and

offshore hake, combined, up to 100 lb (45.36 kg). Silver hake and offshore hake on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

\* \* \* \* \*

10. In § 648.89, paragraphs (b) through (e) are suspended and paragraphs (f) through (i) are added to read as follows:

**§ 648.89 Recreational and charter/party restrictions.**

\* \* \* \* \*

(f)(1) *Recreational minimum fish sizes.* Persons aboard charter or party vessels permitted under this part and not fishing under the NE multispecies DAS program, and private recreational fishing vessels in the EEZ, may not retain fish smaller than the minimum fish sizes, measured in total length (TL) as follows:

**MINIMUM FISH SIZES (TL) FOR CHARTER, PARTY, AND PRIVATE RECREATIONAL VESSELS**

Species	Sizes (inches)
Cod .....	23 (58.42 cm)
Haddock .....	21 (53.3 cm)
Pollock .....	19 (48.3 cm)
Witch flounder (gray sole) .....	14 (35.6 cm)
Yellowtail flounder .....	13 (33.0 cm)
Atlantic halibut .....	36 (91.4 cm)
American plaice (dab) .....	14 (35.6 cm)
Winter flounder (blackback) .....	12 (30.5 cm)
Redfish .....	9 (22.9 cm)

(2) *Exception.* Vessels may possess fillets less than the minimum size specified if the fillets are taken from legal-sized fish and are not offered or intended for sale, trade or barter.

(g) *Possession restrictions—(1) Cod and haddock—(i)* GOM Regulated Mesh Area. For charter, party, and private recreational vessels fishing any part of a trip in the GOM Regulated Mesh Area as defined in § 648.80(j)(1), each person on the vessel may possess no more than 10 **cod and/or haddock, combined, in, or harvested from the EEZ.**

(ii) Areas other than the GOM Regulated Mesh Area. For a private recreational vessel fishing in areas other than the GOM Regulated Mesh Area, each person on the vessel may possess no more than 10 cod and/or haddock, combined, in, or harvested from the EEZ.

(iii) For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet,

such fillet shall be deemed to be from one whole fish.

(iv) Cod and haddock harvested by private recreational vessels with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator of the vessel.

(v) Cod and haddock must be stored so as to be readily available for inspection.

(2) *Atlantic halibut.* Charter and party vessels permitted under this part, and private recreational fishing vessels fishing in the EEZ, may not possess on board more than one Atlantic halibut.

(h) *Restrictions on sale.* It is unlawful to sell, barter, trade, or otherwise transfer for a commercial purpose, or to attempt to sell, barter, or otherwise transfer for a commercial purpose, NE multispecies caught or landed by charter or party vessels permitted under this part not fishing under a DAS or private recreational fishing vessels fishing in the EEZ.

(i) *Charter/party vessel restrictions on fishing in Gulf of Maine closed areas and the Nantucket Lightship Closed Area.*

(1) *Gulf of Maine Closed Areas.* Charter/party vessels issued a Federal multispecies permit and fishing under the charter/party provisions may not fish in the Gulf of Maine closed areas specified in § 648.81(t)(1), (u)(1), and (v)(1) during the time periods specified in those sections, unless the vessel has on board a letter of authorization issued by the Regional Administrator pursuant to §§ 648.81(t)(2)(iii) and 648.89(i)(3). The letter of authorization is valid through July 31, 2002.

(2) *Nantucket Lightship Closed Area.* Charter/party vessels may not fish in the Nantucket Lightship Closed Area specified in § 648.81(r)(1) unless the vessel has on board a letter of authorization issued by the Regional Administrator pursuant to §§ 648.81(r)(2)(iii) and 648.89(i)(3).

(3) *Letters of Authorization.* To obtain either of the letters of authorization specified in § 648.89(i)(1) and (2), a vessel owner must request a letter from the Northeast Regional Office of NMFS, either in writing or by phone (see Table 1 to § 600.502). As a condition of these letters of authorization, the vessel owner must agree to the following:

(i) The letter of authorization must be carried on board the vessel during the period of participation;

(ii) Fish harvested or possessed by the vessel may not be sold or intended for trade, barter or sale, regardless of where the fish are caught;

(iii) The vessel has no gear other than rod and reel or handline gear on board; and

(iv) For the Gulf of Maine closure areas, charter/party vessels may not use any NE multispecies DAS during the period of participation.

11. In § 648.91, paragraphs (c)(1)(i) and (ii) are suspended and paragraphs (c)(1)(v) and (vi) are added to read as follows:

**§ 648.91 Monkfish regulated mesh areas and restrictions on gear and methods of fishing.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(v) *Trawl nets while on a monkfish DAS.* Except as provided in paragraph (c)(1)(vi) of this section, the minimum mesh size for any trawl net, including beam trawl nets, used by a vessel fishing under a monkfish DAS is 10-inch (25.4-cm) square or 12-inch (30.5-cm) diamond mesh throughout the codend for at least 45 continuous meshes

forward of the terminus of the net. The minimum mesh size for the remainder of the trawl net is the regulated mesh size specified under § 648.80(j)(3), (j)(4), (k)(2)(i), or (l)(2)(i) of the Northeast multispecies regulations, depending upon and consistent with the NE multispecies regulated mesh area being fished.

(vi) *Trawl nets while on a monkfish and NE multispecies DAS.* For vessels issued a Category C or D limited access monkfish permit and fishing with trawl gear under both a monkfish and NE multispecies DAS, the minimum mesh size is that allowed under regulations governing mesh size for the NE Multispecies FMP at § 648.80(j)(3), (j)(4), (k)(2)(i), or (l)(2)(i), depending upon, and consistent with, the NE multispecies regulated mesh area being fished.

\* \* \* \* \*

12. In § 648.92, paragraphs (b)(8)(i), and (ii) are suspended and paragraph (b)(8)(vi) is added to read as follows:

**§ 648.92 Effort-control program for monkfish limited access vessels.**

\* \* \* \* \*

(b) \* \* \*

(8) \* \* \*

(vi) *Number and size of nets.* A vessel issued a monkfish limited access permit or fishing under a monkfish DAS may not fish with, haul, possess, or deploy more than 150 gillnets. A vessel issued a NE multispecies limited access permit and a limited access monkfish permit, or fishing under a monkfish DAS, may fish any combination of monkfish, roundfish, and flatfish gillnets, up to 150 nets total, provided that the number of monkfish, roundfish, and flatfish gillnets is consistent with the limitations of § 648.82(k)(1)(viii). Nets may not be longer than 300 ft (91.44 m), or 50 fathoms, in length.

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