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New England Fishery Management Council

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MEMORANDUM

DATE: May 14, 2026
TO: Whiting Advisory Panel and Committee
FROM: Whiting Plan Development Team
SUBJECT: Small-Mesh Multispecies Exemption Area Topics

BACKGROUND

The use of small mesh (less than 5.5 inches) was prohibited by the Northeast Multispecies Fishery Management Plan (FMP) in 1985 to prevent bycatch of regulated groundfish, particularly cod, haddock, and yellowtail flounder. However, the FMP also exempted a large in-shore area from Cape Cod north that was open seasonally to target certain fisheries with a 10-percent bycatch limit for regulated species. An exempted fishery for herring, mackerel, and squid was also created with a 1-percent bycatch limit. In 1994, at the request of the Council, the National Marine Fisheries Service implemented an emergency rule prohibiting any fishery using mesh less than the legal minimum size in the FMP except those fisheries determined to have less than a 5-percent bycatch of regulated species. Framework 9 (FW 9) established an exemption program through which the Regional Administrator could exempt a fishery from the minimum mesh size if bycatch of groundfish species was less than 5% of total catch¹. Several exemption programs have been approved for the whiting fishery (Table 1). Now, small-mesh fishing occurs in several exemption areas from the Gulf of Maine through the Mid-Atlantic (Map 1).

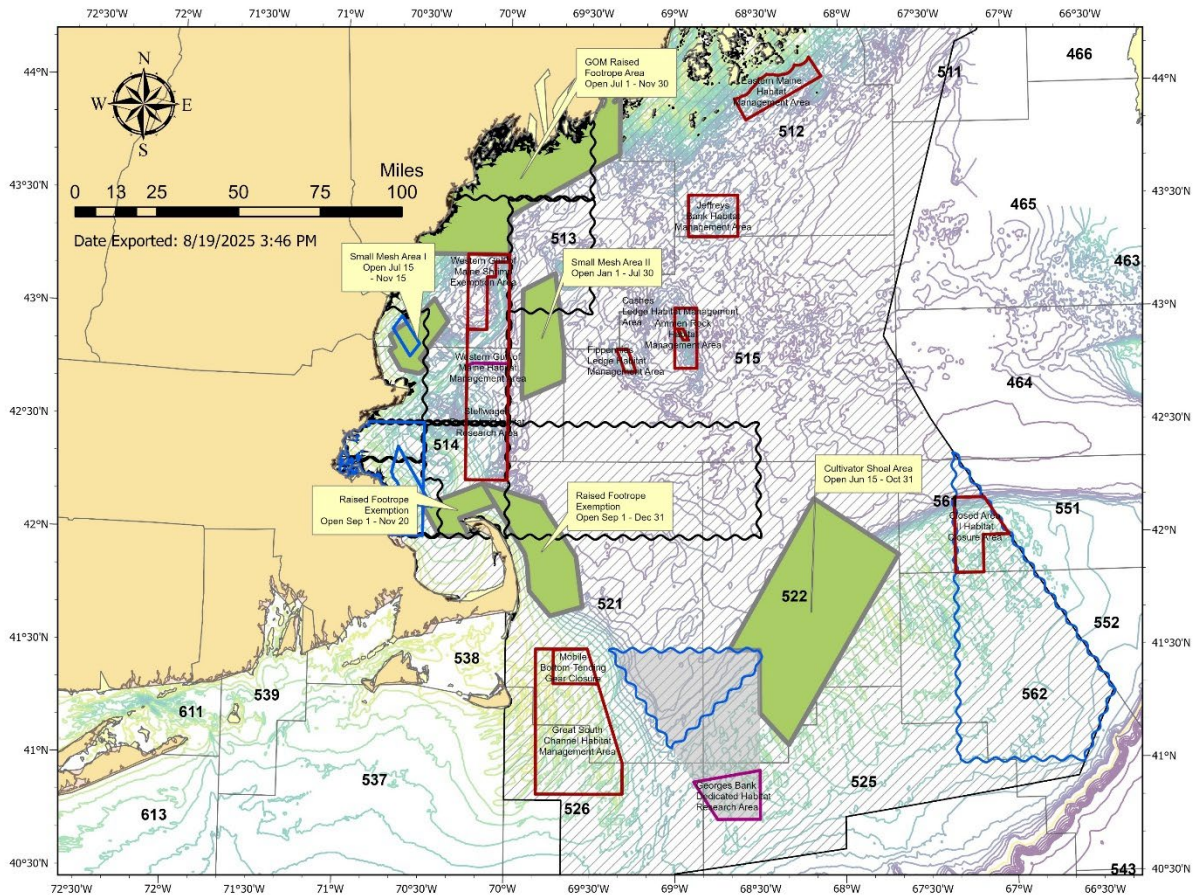
Table 1. Small-Mesh Exemption Areas and Related Actions.

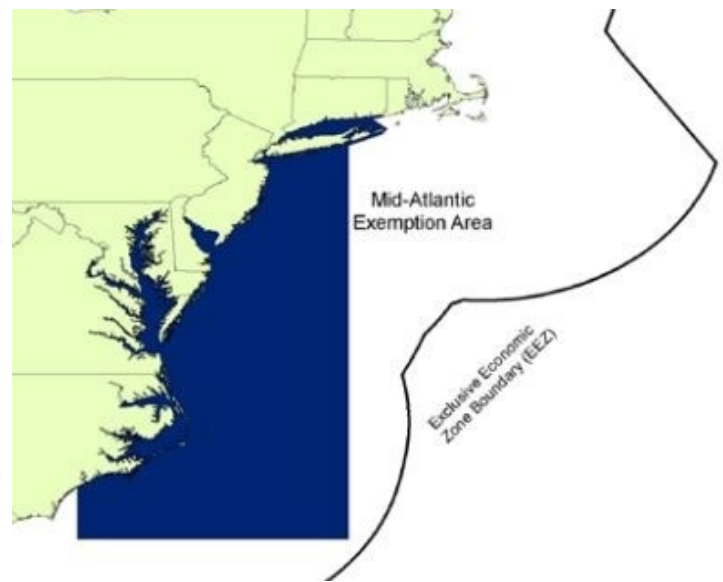
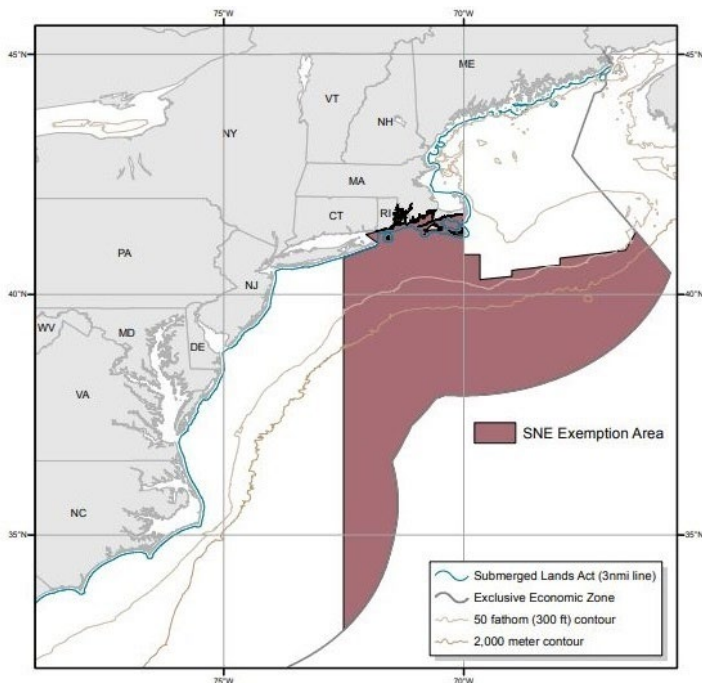
Current Exemption Area	Action, Date Established	Notes
Cultivator Shoal	Amendment 4, 1991	- Initially an experimental fishery to demonstrate the ability to catch silver hake without substantial impacts to regulated species (cod, haddock, pollock, flounder, etc.) - FW6 (1994) increased minimum mesh size to 3" - Shape of area modified in FW9 (1995) to account for Closed Area I overlap
Southern New England Exemption Area	A4, 1991 A5, 1993	- A4 first applied a 5.5-inch mesh in the SNE RMA, specific to protecting SNE/MA yellowtail flounder in the SNE yellowtail area and the Nantucket Shoals Area. There were no minimum mesh sizes in SNE outside of those areas. - A4 allowed fishing with smaller mesh in those two areas when not in possession of yellowtail flounder. - A5 expanded the RMA west of 72° 30'

¹ Other exemptions from the minimum mesh size and day-at-sea requirements of the FMP are also codified.

Small Mesh Areas I & II	Exemption Supplement to Framework 9, 1995	Regional Director reviewed small-mesh exemption proposals and determined that fisheries in Small Mesh Area I and II would not exceed 5% bycatch allowance of regulated species
Mid-Atlantic Exemption Area	A7, 1996	- Redefined as west of 71° 50' to include NY and CT state waters to 72° 30' and then west - A7 exempted fisheries occurring in the Mid-Atlantic RMA from the bycatch certification requirement.
Raised Footrope Trawl (Cape Cod)	Framework 35, 2000	- Initially an experimental fishery to reduce bycatch of non-target species - Boundaries modified through FW 35 modification in 2002
Inshore Gulf of Maine Grate Raised Footrope Trawl	Framework 38, 2003	Based on experimental work conducted by ME DMR to test gears that would minimize regulated species bycatch

Small-Mesh Exemption Area Topics





SECTION I. LOA REQUIREMENTS IN THE SMALL-MESH MULTISPECIES (WHITING) FISHERY

Two of the seven small-mesh multispecies exemption areas require a letter of authorization (LOA) to fish: the Cultivator Shoal Whiting Fishery Exemption Area and the Raised Footrope Trawl Fishery Exemption Area (Table 2). These LOAs outline several terms and conditions for fishing in particular exemption areas such as the gear used, geographic area, bycatch limits, and applicable possession limits. Vessels with a Northeast multispecies permit may also request a LOA to transfer up to 500 lb of silver hake and unlimited amounts of red hake per trip to another vessel for use as bait.

Amendment 12 (2000) implemented LOA requirements to fish under a particular mesh size/possession limit category, but the Council removed those LOA requirements in Framework 32 (FW32) to increase flexibility, and instead based possession limits on the smallest codend mesh on board the vessel. Neither Amendment 12 nor FW32 changed the LOA requirement for Cultivator Shoal.

In Framework 35 (2000), the Council created the Raised Footrope Trawl Exempted Whiting Fishery and required participating vessels to obtain and carry an LOA, similar to the requirement for the Cultivator Shoal whiting fishery. In this case, the LOA served both to track which vessels were authorized to participate in the exempted fishery, which overlapped seasonal groundfish closed areas, and to limit the participating vessels to fishing for only small mesh species during the period. The LOAs would also identify that the vessel was subject to the more restrictive bycatch limits that were intended to discourage vessels from rigging their gear improperly.

LOAs can be obtained by contacting the GARFO permits office by phone, email, or via an online portal. To apply for an LOA, vessel owners must provide the vessel name, owner name, permit number, and the amount of time the vessel will be enrolled. LOAs are effective the day after they are requested and are mailed to the applicant. Vessels must remain enrolled in the LOA for a minimum of 7 days, at which point the vessel owner can withdraw if desired by contacting the Greater Atlantic Region Permit Office. Vessels must carry the LOA on board for the entire participation period.

Table 2. Small-mesh multispecies exemption areas, seasons, and LOA requirements.

Small-Mesh Exemption Area	Season	LOA Requirement
Cultivator Shoal	June 15 – October 31	Yes
Southern New England Exemption Area	Year round	No
Small Mesh Area 1	July 15 – November 15	No
Small Mesh Area 2	January 1 – June 30	No
Mid-Atlantic Exemption Area	Year round	No
Raised Footrope Trawl (Cape Cod)	September 1- November 20 (eastern portion through December 31)	Yes
Gulf of Maine Grate Raised Footrope Trawl Exempted Whiting Fishery	July 1 – November 30	No

Cultivator Shoal Whiting Fishery Exemption Area (June 15-October 31)

In 1991, [Amendment 4](#) (A4) to the Northeast Multispecies FMP changed the Cultivator Shoal experimental fishery into a more permanent fishing area, the “Cultivator Shoal Whiting Fishery”, requiring a “special permit from the Regional Director.” Vessels with an active Northeast Multispecies permit may elect to apply for an LOA to access the Cultivator Shoal Whiting Fishery Exemption Area. Vessels fishing in the exemption area are subject to a series of requirements, including:

- Vessels must keep a valid LOA issued by the Regional Administrator on board;
- Owners/operators of vessels may not fish for, possess, or land any species of fish other than whiting/offshore hake (up to 30,000 lb combined) and red hake (up to 3,000 lb), except for several allowable incidental species up to limits specified in [regulation](#);
- Nets must have a 3-inch square or diamond minimum mesh size in the first 100 meshes from the terminus of the net (for vessels greater than 60 feet in length) or first 50 meshes (for vessels less than or equal to 60 feet in length);
- Vessels must stow any nets with smaller mesh size (including the whiting net) when transiting through the Gulf of Maine or Georges Bank Regulated Mesh Areas; and
- Vessels fishing in the Cultivator Shoal exemption area may fish for small-mesh multispecies in exempted fisheries outside of the exemption area, provided the vessel complies with the more restrictive gear, possession limit, and other requirements specified in regulation for the period specified on the vessel’s LOA.

In A4, the Council stated that the LOA (“special permit”) requirement would allow the Regional Administrator to quickly close the area if discards of regulated species were too high, and to enforce reporting, sea sampling, and bycatch requirements. A4 also allowed the Regional Administrator to restrict issuance of the LOAs if there are high discards of other species in the area.

Regulations: [https://www.ecfr.gov/current/title-50/part-648/subpart-F#p-648.80\(a\)\(6\)\(i\)](https://www.ecfr.gov/current/title-50/part-648/subpart-F#p-648.80(a)(6)(i))

Raised Footrope Trawl Whiting Fishery Exemption Area (September 1–November 20, September 1-December 31 for eastern portion)

The Raised Footrope Trawl exemption area was established in 2000 through [Framework 35](#). Similar to the Cultivator Shoal exemption area, the Raised Footrope Trawl area also started as an experimental fishery to test raised footrope trawl gear used to target small-mesh species while reducing bycatch of non-target species. Bycatch concerns in this area included juvenile flatfish, specifically American plaice, yellowtail flounder, and winder flounder. Vessels fishing under an LOA in the Raised Footrope Trawl exemption area are subject to several requirements, including:

- All nets must have a minimum mesh size of 2.5-inch square or diamond mesh in the first 100 meshes from the terminus of the net (for vessels greater than 60 feet in length) or first 50 meshes (for vessels less than or equal to 60 feet in length)
- Vessels may not fish for, possess on board, or land any species other than silver hake, offshore hake, and red hake (subject to applicable possession limits), except for specific allowable incidental species (to the amounts specified in regulation)
- Vessels must use raised footrope trawl gear configured as specified in regulation

Vessels participating in the Raised Footrope Trawl fishery under an LOA may also fish in other small-mesh exemption areas if they adhere to the more restrictive gear, possession limit, and other requirements for the duration of the LOA.

FW35 allowed participants in the raised footrope trawl fishery to fish within the area during the months of October and November when Blocks 124 and 125 were scheduled to be closed to gear capable of catching groundfish. In FW35, the Council stated that while LOAs are an additional administrative burden, requiring LOAs for this fishery allows for better monitoring (number of participants) and increases the enforceability of the exemption. In the final rule, NMFS stated that one intent of the LOAs was to allow NMFS to identify vessels participating in the fishery on a day-to-day basis, providing the ability for simplified monitoring of the fishery.

Regulations: [https://www.ecfr.gov/current/title-50/part-648/subpart-F#p-648.80\(a\)\(15\)\(i\)](https://www.ecfr.gov/current/title-50/part-648/subpart-F#p-648.80(a)(15)(i))

RECENT PARTICIPATION IN THE CULTIVATOR SHOAL AND RAISED FOOTROPE TRAWL EXEMPTION AREAS

Overall, relatively few vessels receive and use LOAs to fish in the two small mesh exemption areas. From FY 2020 to 2025, the number of LOAs issued annually for the Cultivator Shoal exemption area ranged from 3 to 11, and 5 to 8 LOAs were issued annually in the Raised Footrope Trawl area (Table 3). Overall, fewer vessels used the issued LOAs, with a 100% utilization rate occurring in only one year in one area. The number of trips occurring using LOAs ranged substantially across fishing years.

Table 3. Number of Northeast multispecies permits issued LOAs, the number of active permits with LOAs, and the number of trips occurring under LOAs for the Cultivator Shoal and Raised Footrope Trawl exemption areas, FY 2020-2025.

Fishing Year	Cultivator Shoal			Raised Footrope Trawl		
	# Permits	# Active Permits	# Trips	# Permits	# Active Permits	# Trips
2020	6	C	C	7	C	C
2021	4	4	68	5	4	43
2022	11	5	79	6	3	41
2023	9	5	51	8	5	39
2024	10	5	29	7	C	C
2025	3	C	C	5	C	C
Source: NOAA/GARFO. Retrieved 2/18/2026 by K. Winiarski Confidential data is indicated by a "C".						

The number of LOAs issued for the Cultivator Shoal area in FY 2025 was the lowest in recent years (3), and the number of LOAs issued in FY 2025 for the Raised Footrope Trawl area was also at the low end of the range for recent years (5). Notably, in FY 2025, the Federal government was shut down due to a lack of appropriations from October 1 to November 12, 2025, overlapping with portions of the open seasons

for both the Cultivator Shoal and Raised Footrope Trawl exemption areas and potentially impacting the ability for vessels to request and receive LOAs. Members of the Whiting Advisory Panel reported varied impacts from the government shutdown. Some members experienced delays in processing time, while others applied for LOA(s) at the beginning of the fishing season and were not impacted.

There were also some spatial trends across recent fishing years in each exemption area. The majority of trips in the Raised Footrope Trawl area from FY 2020-2025 occurred in the eastern portion (open September 1 – December 31). Trips in the Cultivator Shoal exemption area largely occurred in the southern portion across the same time period. All vessels actively using LOAs in the exemption areas also had Vessel Monitoring Systems (VMS).

ENFORCEMENT UTILITY

LOAs are helpful tools for enforcement purposes, as the letters clearly define the terms for a trip taken in a designated area in a specified time period. An LOA allows enforcement officers to determine a vessel's compliance with applicable regulations either at sea or at the dock and provides clarity to vessel operators. However, there are some complexities associated with enforcement in the small-mesh exemption areas, including the differences in LOA requirements between areas and overlapping LOAs between fisheries. For example, vessels fishing in the summer flounder small-mesh exemption area from November 1-April 30 that wish to retain summer flounder can apply for an LOA to land up to 200 lb using mesh sizes less than 5.5 inches (diamond) or 6.0 inches (square)². This area overlaps spatially with all whiting exemption areas, and vessels with a Northeast multispecies permit are subject to small-mesh restrictions in the exemption areas. The area also overlaps temporally with the Raised Footrope Trawl Area, so there are some vessels that could have both LOAs active at once. There is generally a small number of vessels targeting whiting under LOAs, which makes these potential challenges more manageable.

OBSERVER PROGRAM APPLICATIONS

LOAs are not used to assign observer coverage.

MANAGEMENT PROGRAM USES

An initial objective of LOAs was to allow NMFS to identify vessels participating in the fishery on a day-to-day basis, providing the ability for simplified monitoring of the fishery. LOAs can be helpful for some data analysis purposes but are not used to bin trips in CAMS (catch accounting).

ADVISORY PANEL COMMENTS

Advisors noted that primarily, the LOAs are used to provide to the U.S. Coast Guard if a vessel is boarded. The document also serves as a reference for regulations as needed and is preferred to referencing the requirements on-line.

SECTION II. SMALL-MESH EXEMPTION AREA INCIDENTAL SPECIES ALLOWANCES

The Cultivator Shoal whiting fishery was created by Amendment 4, which also added silver hake and red hake to the FMP. These stocks were added to the FMP because they were an integral part of the mixed-species trawl fishery throughout the range of the species managed by the FMP at that time (cod, haddock, pollock, winter flounder, yellowtail flounder, American plaice, witch flounder, and Acadian redfish). The

² <https://www.fisheries.noaa.gov/new-england-mid-atlantic/commercial-fishing/letters-authorization-programs-greater-atlantic-region>

Cultivator Shoal whiting fishery was created to replace the experimental fishery for silver hake in the Cultivator Shoal area. Amendment 4 implemented a bycatch limit of 1% of regulated species, based on data from the experimental fishery showing regulated species accounted for only 0.6% of total catch in the experimental whiting fishery. Amendment 4 further explained that the bycatch limit was intended to prevent targeting of regulated species without constraining catch of silver hake and stated that the special permit provision (LOA) would allow the Regional Administrator to take action quickly to close the fishery if discards or regulated species rose to an unacceptable level. Amendment 5 set a bycatch limit of 500 lb of regulated species for vessels using small mesh. Framework 3 revised the regulated species bycatch limit to the lesser of 500 lb or 10%, by weight, of all other species on board, and Framework 6 clarified its application to the Cultivator Shoal whiting fishery.

Framework 9 expanded the allowable bycatch species that may be retained when fishing under the small-mesh exempted species program to include monkfish and lobster, with limits that represented a legitimate bycatch in the exempted fisheries without providing an incentive to target those species. The intent was to reduce discards and provide additional revenue to the industry.

In Amendment 12, the Council considered additional management measures based on various geographic areas and chose to keep the Cultivator Shoal Whiting Fishery Exemption Area, but not to create additional area delineations further south because it preferred uniform management measures, noting that the exemption to use small mesh applied to the whole of SNE waters because bycatch of groundfish had been determined to be below the 5% threshold for exempted fisheries.

In 2000, FW35 created the Raised Footrope Trawl Exempted Whiting Fishery and set bycatch restrictions that were more restrictive than those required for establishing new multispecies exempted fisheries. The incidental catch allowances for the Cape Cod Bay raised footrope trawl fishery were established to discourage vessels from rigging their gear improperly and allowing the gear to fish on the ocean bottom. As a result, possession of bottom-dwelling species, such as lobster and monkfish, were prohibited in the Cape Cod Bay raised footrope trawl fishery. Because Small Mesh Areas 1 and 2 require use of the raised footrope trawl, the Council felt it appropriate to allow the same incidental catch species for Small Mesh Areas 1 and 2 and to provide the same incentives for fishing the required gear properly. Specifically, in FW35, monkfish, lobster, ocean pout, and sculpin were no longer allowed to be taken as incidental catch in Small Mesh Areas 1 and 2.

Framework 37 (FW37) specified that all areas in the Gulf of Maine that required a raised-footrope trawl would be limited to possession of the following incidentally-caught species: Red hake, squid, butterfish, mackerel, dogfish, herring, and scup. In the final rule implementing FW37, NMFS addressed comments expressing concern about potential economic impacts associated with the proposed modification to incidental catch allowances in Small Mesh Areas 1 and 2. NMFS stated that the standardized incidental catch allowances would provide the same incentives for properly fishing the required gear (e.g., discourage improper rigging, which could allow gear to fish on the ocean bottom) as it in the Cape Cod Bay raised footrope trawl fishery. In addition, NMFS highlighted that making the incidental catch allowances consistent for all three raised footrope trawl fisheries would result in only minor reductions in the amount of monkfish and lobster retained by vessels in Small Mesh Areas 1 and 2 (<15 lb per trip, on average, in 2001), and vessel revenues (<\$20 per trip, on average, in 2001).

In 2003, Framework 38 (FW38) implemented the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery, based on 8 years of experimental work conducted by the fishing industry in collaboration with the Maine Department of Marine Resources. The net specifications were consistent with the requirements for the Cape Cod Bay whiting fishery, along with a requirement to use a Nordmore-style grate. A maximum whiting possession limit was set, along with additional catch restrictions to ensure the net is fished properly and kept off the ocean bottom. The incidental catch restrictions were set the same as those implemented for the Cape Cod Bay raised footrope trawl fishery under FW35, with one exception that possession of dogfish was prohibited. FW38 prohibited the possession of monkfish, lobsters, and skates to ensure that the net is rigged correctly, such that the footrope is not in contact with the bottom, and thus

much less likely to catch those species. Possession of crabs, longhorn sculpin, sea raven, and dogfish was prohibited to reduce damage to whiting, as well as to encourage fishing the net with the footrope off the bottom. The FW noted that, except for a few juveniles, very few dogfish are retained by the gear because they are too large to pass through the grate.

Table 4. Current small-mesh multispecies exemption area regulations.

Exemption Area		Gulf of Maine Grate Raised Footrope Trawl	Cultivator Shoal	Small Mesh Area 1	Small Mesh Area 2	Raised Footrope Trawl Areas (Cape Cod)	Southern New England	Mid-Atlantic
Season		July 1-Nov 30	June 15-Oct 31	July 15-Nov 15	Jan 1 – June 30	Sept 1- Nov 20/Dec 31 (eastern portion)	Year round	Year round
Gear Requirements	Mesh size	Minimum 2.5” square or diamond	Minimum 3” square or diamond			Minimum 2.5” square or diamond	Can only land small-mesh species with trawl gear; minimum 6” diamond of 6.5” square mesh (vessels fishing under NE mult DAS or sector trip).	Trawl: may use <6.5” mesh if participating in exempted fishery
	Other	Raised footrope trawl with excluder grate; no sweep	N/A	Raised footrope trawl		Raised footrope trawl		Gillnet exempted fishery: only gillnet gear, minimum 5” mesh. Limited to 50 gillnets
Possession Limit	Red Hake	Northern: 3,000 lb	Northern: 3,000 lb	Northern: 3,000 lb		Northern: 3,000 lb	Southern: <5.5” mesh: 600 lb ≥5.5” mesh using small-mesh selective trawls: 1,000 lb	Southern: <5.5” mesh: 600 lb ≥5.5” mesh using small-mesh selective trawls: 1,000 lb
	Whiting (Silver/ Offshore Hake)	7,500 lb	30,000 lb	<3” mesh: 15,000 lb ≥3” mesh: 30,000 lb		<3” mesh: 15,000 lb ≥3” mesh: 30,000 lb	<3” mesh: 15,000 lb ≥3” mesh: 40,000 lb	<3” mesh: 15,000 lb ≥3” mesh: 40,000 lb
Incidental Species allowed		Atlantic herring; Atlantic mackerel; Alewife; Butterfish; Squid	Atlantic herring; Atlantic mackerel; Butterfish; Squid; Longhorn sculpin; Spiny dogfish; Monkfish & monkfish parts; American lobster	Atlantic herring; Atlantic mackerel; Butterfish; Squid; Scup; Spiny dogfish		Atlantic herring; Atlantic mackerel; Butterfish; Squid; Scup; Spiny dogfish	Atlantic herring; Atlantic mackerel; Butterfish; Squid; Scup; Spiny dogfish	
LOA Required?		No	Yes	No		Yes	No	No
Sources: NOAA Fisheries: https://www.fisheries.noaa.gov/species/silver-hake/exempted-fishing ; Regulations: https://www.ecfr.gov/current/title-50/section-648.80								

Table 5. Incidental species currently allowed in small-mesh exemption areas						
Species	Gulf of Maine Grate Raised Footrope Trawl	Cultivator Shoal	Small Mesh Area 1 & 2	Raised Footrope Trawl Areas (Cape Cod)	Southern New England	Mid-Atlantic
^ Atlantic herring – up to 6,600 lb	x	x	x	x	x	
Atlantic mackerel – up to 5,000 lb	x	x	x	x	x	
Alewife – no specified possession limit	x				x	
Butterfish – less than 600 lb	x	x	x	x	x	
^ Loligo Squid – 250 lb	x	x	x	x	x	
^ Illex Squid – 10,000 lb	x	x	x	x	x	
^ Scup – no more than 40 fish	x		x	x	x	
Longhorn sculpin – possession limit not specified in regulations		x			x	
Spiny dogfish – up to 7,500 lb/trip (with Federal spiny dogfish permit)		x	x	x	x	
Monkfish & monkfish parts**		x			x	
American lobster*		x			x	
Swordfish					x	
Spot					x	
Atlantic croaker					x	
Sea ravens					x	
Blueback herring					x	
American shad					x	
Hickory shad					x	
Alewife					x	
Four spot flounder					x	
Tilefish					x	
Bluefish					x	
Skate & skate parts***					x	
Mullet					x	
John Dory					x	
Ocean pout****					x	

Shrimp					x	
Summer flounder					x	
Weakfish					x	
Conger eel					x	
Black sea bass					x	
Blowfish					x	
Tautog					x	
Cunner					x	
Atlantic chub mackerel					x	
Sea robin					x	
*Up to 10% (by weight) of all other species on board or 200 lobsters, whichever is less **Up to 10% (by weight) of all other species onboard or up to 50 lb tail weight/146 whole weight of monkfish per trip, whichever is less ***Up to 10% (by weight) of all other species on board; except barndoor and prohibited skate species ****Possession currently prohibited. ^Vessels issued a limited access permit for these stocks have different possession limits. Source: https://www.fisheries.noaa.gov/species/silver-hake/exempted-fishing						

SECTION III. PROCESS FOR MANAGEMENT REVISIONS

The regulations for adding or deleting fishery exemptions are codified at [50 CFR 648.80\(a\)\(8\)](#). Two types of exemptions are possible, those prohibiting retention of regulated multispecies³ and those allowing retention and landing of regulated multispecies. Each of the current exemptions for the whiting fishery prohibits retention and landing of regulated multispecies.

The regulations at [§ 648.80\(a\)\(8\)\(i\)](#) detail the process and standard for exemptions that *prohibit* retention of 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 Council, determines that the percentage of regulated species caught as bycatch is, *or could be reduced to*, less than 5 percent, by weight, of total catch. The Regional Administrator must also determine that the exemption would not jeopardize fishing mortality objectives. The 5-percent regulated species incidental bycatch standard could be modified for a stock that is not in an overfished condition, or if overfishing is not occurring on that stock. When considering modifications of the standard, it must be shown that the change would not delay a rebuilding program, or result in either overfishing or an overfished condition. In determining whether exempting a fishery may jeopardize meeting fishing mortality objectives, the Regional Administrator may consider various factors, including a non-exhaustive list in the regulations.

The regulations at [§ 648.80\(a\)\(8\)\(ii\)](#) detail the process and standard for exemptions that allow retention of regulated multispecies. An exemption may be added in an existing fishery that would allow vessels to *retain and land* regulated multispecies if the Regional Administrator, after consultation with the Council, considers the status of the regulated species stock or stocks caught in the fishery, the risk that this exemption would result in a targeted regulated species fishery, the extent of the fishery in terms of time and area, and the possibility of expansion in the fishery. Incidental catch in exempted fisheries approved under this standard are subject, at a minimum, to the following restrictions:

1. A prohibition on the possession of regulated multispecies that are overfished or where overfishing is occurring;
2. A prohibition on the possession of regulated species in NE multispecies closure areas; and
3. A prohibition on allowing an exempted fishery to occur that would allow retention of a regulated multispecies stock under an ongoing rebuilding program, unless it can be determined that the catch of the stock in the exempted fishery is not likely to result in exceeding the rebuilding mortality rate.

The Regional Administrator may modify or delete an existing exemption if it is determined that the catch of regulated species is equal to or greater than 5 percent, by weight of total catch, or another pertinent approved amount, or that continuing the exemption may jeopardize meeting fishing mortality objectives.

Through a framework, the Council may recommend additions or deletions to exempted fisheries, for which there may be insufficient data or information for the Regional Administrator to determine, without public comment, percentage catch of regulated species; or the risk that the exemption would result in a targeted regulated species fishery, the extent of the fishery in terms of time and area, and the possibility of expansion in the fishery (see [§ 648.80\(a\)\(8\)\(iii\)](#)).

In conclusion, a framework adjustment would be necessary to make any revisions to the existing exemptions to the Northeast Multispecies FMP that regulate the whiting fishery (see [A12 final rule](#)). The framework process for the FMP is codified at 50 CFR [648.90](#). The introductory paragraph distinguishes the biennial review process for regulated species and ocean pout (large-mesh species) at § [648.90\(a\)](#) from

³ Regulated species: Atlantic cod, witch flounder, American plaice, yellowtail flounder, haddock, pollock, winter flounder, windowpane flounder, Acadian redfish, white hake, Atlantic halibut, and Atlantic wolffish.

the small-mesh annual review codified at § [648.90\(b\)](#). The small-mesh specifications process is detailed in § [648.90\(b\)\(1\)](#), but is limited to setting specifications and related measures to assure the specifications will not be exceeded. In § [648.90\(c\)](#), there is a process for "Within season management action for NE multispecies, including small-mesh NE multispecies." This is analogous to the framework process, and § [648.90\(c\)\(1\)\(ii\)](#) expressly includes changes to exempted fisheries permitting for the use of small mesh. In discussion with attorneys from General Counsel Northeast, it was determined that any changes to the small-mesh fishery exemptions should be made through a framework adjustment to the FMP conducted by the Whiting PDT and Committee.