

6140; or Donald McCaughran, telephone 206-634-1838.

SUPPLEMENTARY INFORMATION: The IPHC, under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has issued this inseason action pursuant to IPHC regulations governing the Pacific halibut fishery. The regulations have been approved by the Secretary of State (59 FR 22522, May 2, 1994). On behalf of the IPHC, this inseason action is published in the Federal Register to provide additional notice of its effectiveness, and to inform persons subject to the inseason action of the restrictions and requirements established therein.

Inseason Action

1994 Halibut Landing Report No. 8

Area 4C Closes on June 30

The IPHC estimates that the 700,000 lb (317.5 mt) catch limit for Area 4C, the waters surrounding the Pribilof Islands, will be obtained by June 30. Area 4C will be closed to halibut fishing at 12:00 noon Alaska Daylight Time on that date until further notice.

Area 4B Commercial Fishery

Landings through June 25 from Area 4B total nearly 100,000 lb (45.4 mt). Vessel operators intending to fish in this area are reminded that the vessel clearances required prior to fishing, and prior to unloading and/or departing from Area 4B, can only be obtained at Nazan Bay on Atka Island. A 10,000 lb (4.5 mt) fishing period limit will apply to each 12-hour fishing period in Area 4B. After 15 percent (315,000 lb (142.9 mt)) of the Area 4B catch limit has been taken, the area will be closed until August 15, when it will reopen for a 96-hour fishing period without fishing period limits.

Dated: July 12, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94-17434 Filed 7-18-94; 8:45 am]

BILLING CODE 3510-22-F

50 CFR Part 625

[Docket No. 940241-4155; I.D. 062294B]

Summer Flounder Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule published on Friday, June 3, 1994 (59 FR 28809), that amended the regulations implementing the Fishery Management Plan for the Summer Flounder Fishery.

EFFECTIVE DATE: July 18, 1994.

FOR FURTHER INFORMATION CONTACT: Hannah Goodale, Fishery Policy Analyst, 508-281-9101.

Correction of Publication

Accordingly, the publication on June 3, 1994, of the final rule [I.D. 013194A], which was the subject of FR Doc. 94-13518, is corrected as follows:

§ 625.8 [Corrected]

1. On page 28810, in the first column, amendatory instruction "2." the designation "(c)(9)" is corrected to read "(c)(11)."

2. On page 28810, in the first column, § 625.8, under paragraph (c)(9), the paragraph designation "(9)" is corrected to read "(11)".

Dated: July 13, 1994

Charles Karnella,

Acting Program Management Officer, National Marine Fisheries Service.

[FR Doc. 94-17514 Filed 7-18-94; 8:45 am]

BILLING CODE 3510-22-W

50 CFR Part 650

[Docket No. 940798-4198; I.D. 061094A]

RIN 0648-AC83

Atlantic Sea Scallop Fishery

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 1 to the Atlantic Sea Scallop Fishery Management Plan (FMP). This framework adjustment temporarily adjusts the maximum crew limit, redesignates the fishing year for sea scallops to begin on March 1 each year, and refines existing gear requirements.

EFFECTIVE DATE: August 17, 1994.

ADDRESSES: Copies of Amendment 4, its regulatory impact review, initial regulatory flexibility analysis, the final supplemental environmental impact statement, and the supporting documents for Framework Adjustment 1

are available from Douglas Marshall, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906-1097, telephone 617-565-8937

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, NMFS, Fishery Policy Analyst, 508-281-9273.

SUPPLEMENTARY INFORMATION

Background

The final rule for Amendment 4 to the FMP was published on January 19, 1994 (59 FR 2757), with implementation for most measures on March 1, 1994, including a call-in notification system for the days-at-sea (DAS) program. The amendment retained the FMP's objectives to: (1) Restore adult stock abundance and age distribution; (2) increase yield per recruit for each stock; (3) evaluate plan research, development and enforcement costs; and (4) minimize adverse environmental impacts on sea scallops.

Amendment 4 changed the primary management strategy from a meat count (size) control to effort control. The amendment controls total fishing effort through limited-access permits and a schedule of reductions in allowable DAS. Supplemental measures limit increases in vessel fishing power to control the amount of fishing pressure and to help control the size of scallops landed, gear restrictions, and limits on the number of crew members.

Additionally, the amendment includes a framework procedure for adjusting the management measures in the FMP.

Framework Adjustment 1 temporarily adjusts the maximum crew limit, redesignates the fishing year to begin on March 1, and refines existing gear requirements.

NMFS is adjusting the regulations under the framework abbreviated rulemaking procedure established by Amendment 4 and contained in 50 CFR part 650 subpart C. This procedure requires the New England Fishery Management Council (Council), when considering specifically allowed adjustments to the FMP, to develop and analyze the actions over the span of at least two Council meetings. The Council must provide the public with advance notice of both the proposals and the analysis and with the opportunity to comment on them prior to and at the second Council meeting. Upon review of the analysis and public comment, the Council may recommend to the Director, Northeast Region, NMFS (Regional Director), that the measures be published as a final rule if certain conditions are met. The Regional Director may publish the measures as a

final rule, or as a proposed rule, if additional public comment is needed.

In accordance with the regulations, public comments on the framework adjustment were taken by the Council during its February 16, 1994 (59 FR 6949), and March 17, 1994 (59 FR 12265), meetings. Seven members of the industry commented at these meetings. The comments were generally in support of the recommended adjustment. Seven written responses were received, mostly offering negative commentary. The Council voted to approve Framework Adjustment 1 on March 17, 1994.

The Council also held a joint sea scallop industry advisor and Plan Development Team (PDT) meeting on March 21, 1994. The industry discussed wide-area closures to protect small scallops and, after listening to PDT members express concern over the ability to identify distinct areas of small scallops to close, decided not to recommend closures. The general consensus at the meeting was to let the new regulations go into effect, along with the seven-member crew limit proposed in Framework Adjustment 1.

Measure 1—Protection of Small Scallops

In response to very high levels of recruitment that have been documented in the Mid-Atlantic resource area (Regional Director's Status Report, January 1994), the Council recommended measures to reduce the maximum crew limit and to ensure the adequate escapement of small scallops from dredge gear.

The expected impact of the proposed seven-member crew limit was analyzed in Amendment 4. There are two possible ways for vessel operators to respond to reduced crew limits. They can try to fish for larger scallops, and if catches are sufficient, land as much weight of scallop meat as with a crew of nine; or they can continue catching and processing fewer small scallops; or a combination of both. Either response effectively reduces the number of scallops harvested by a vessel per day at sea. For example, in the analysis done for this framework adjustment, it is estimated that a crew of seven can shuck and process 900 lb (408.2 kg) (meat weight) of scallops per day at sea, at an average of 45 meats per lb (45 meats per 0.453 kg). A crew of nine, however, would be capable of shucking 1,500 lb (680.4 kg). Under ideal conditions, this impact would translate into a 40 percent reduction in fishing mortality.

Measure 2—Effort Reduction Schedule

Amendment 4 relies largely on annual incremental reductions in fishing effort to reduce fishing mortality. However, because Amendment 4 was based on a calendar year and was not implemented until March 1, 1994, the DAS allocations for 1994 would be allocated over a 10-month period instead of a 12-month period; therefore, there probably would have been no reduction in fishing effort for Atlantic sea scallops until 1995. Forestalling effort reduction in the first year may impose larger economic burdens on the fishing industry in later years if adjustments become necessary to make up these shortcomings.

This final rule will implement an adjustment to the effort-reduction program so that each allocation of DAS is done on a 365-day program year beginning with the first year of the plan. A given fishing year will begin March 1 and end on the last day of February of the following year.

Measure 3—Changes to the Gear Restriction Requirements

The Council has also included gear-restriction measures that: (1) Allow vessels to carry one spare dredge or net so that they would not be forced to return to port to make major dredge repairs, (2) define a legal scallop dredge to enhance the likelihood that ring-size restrictions will reduce harvest of smaller scallops, and (3) allow the use of triple links and broken links in the scallop dredge to accommodate practical considerations concerning the use of scallop dredges.

Comments and Responses

The Council received comments on Framework Adjustment 1 from two fishing industry associations and five individuals. Specific comments are discussed and responded to below.

The Council held a joint sea scallop industry advisor and PDT meeting on March 21, 1994. These comments are also summarized as follows.

Seven-Person Crew Limit

Comment: Limiting the crew to seven is unsafe, particularly in the winter. Some skippers will overwork their crews and the resulting fatigue will cause accidents.

Response: The analysis included in the Council's framework package suggests that, based on available Coast Guard data for the scallop fishery, there is no relationship between the size of the crew and accidents aboard scallop vessels. Fishermen have publicly stated that most New Bedford scallop boats carried less than seven crew members in the winter of 1993–1994 simply because

scallop stocks were low. Fishermen also stated, and NMFS concurs, that there is nothing inherently dangerous about using a seven-person crew and that safety ultimately depends upon on-board safety practices rather than crew size. The seven-crew limit will be implemented only through December 1994, with the option of extending or modifying that limit through another frameworking action.

Comment: The Coast Guard will have trouble enforcing the seven-person crew limit.

Response: Enforcing a seven-member crew limit is no different than enforcing the nine-member crew limit considered and approved under Amendment 4. A Coast Guard representative informed the Scallop Committee that the Coast Guard is experienced in procedures for inspecting space used to conceal contraband goods aboard vessels and therefore will be able to detect attempts to hide crew.

Comment: No changes should be made until the provisions of Amendment 4 are allowed to work for a reasonable period.

Response: In its discussion before the final vote to submit Amendment 4, and by including the framework adjustment process, the Council explicitly recognized the possible need for immediate adjustments to protect small scallops once the meat count regulations were eliminated. Initial reports and data since approval of Amendment 4 indicate that small scallops are being taken in significant quantities. The reduction in the crew limit is the type of action the Council anticipated. NMFS approved the plan, contingent on the Council's intention to make such adjustments, if needed.

Comment: Freezing scallops at sea should be prohibited. It encourages the harvesting of small scallops because frozen scallops can be landed with counts ranging from 50 to 100.

Response: Amendment 4 does not include controls on the size of scallops landed, frozen or otherwise. Therefore, freezing at sea does not offer any advantage to vessel operations that would encourage the harvesting of small scallops. Frozen-at-sea scallops, if properly processed, provide some of the highest quality products made from Atlantic sea scallops.

Comment: NMFS should be looking to increase the number of jobs. As boats are retired from the fishery, those who have suffered because of the failed meat count plan should be able to increase the size of their crews when the resource improves.

Response: The proposed actions are part of a group of measures designed to

eliminate overfishing over the long term. A healthy scallop resource will provide the greatest overall opportunity for employment. Also, this action will implement the crew-limit reduction only through December 1994. The Council may recommend adjustments to the crew-limit measure as necessary under the framework procedures implemented under Amendment 4.

Comment: A crew limit of seven is not needed because both production and price fall off dramatically once vessels try to harvest scallops as small as 50-count.

Response: Scallop industry advisors have informed the Council that more protection for small scallops is needed and that carrying nine crew members would allow some vessels to exploit concentrations of small scallops to a greater extent than if they were limited to seven crew members. Reduction in crew size, working in tandem with market forces, can only expedite conservation of small scallops.

Comment: A closing of the fishery is warranted, for 3, 6, 9 months, or whatever it takes to allow juvenile scallops to reach the size needed for a sustainable resource.

Response: The Council cannot implement area closures under the framework adjustment process using abbreviated rulemaking at this time and, therefore, this type of measure would inherently take longer to implement. Scientists, moreover, have expressed concern over the ability to identify distinct areas of small scallops to close because most areas are dominated by small scallops. Also, the Council and NMFS have determined that the type of measures currently included in Amendment 4 have the potential to eliminate overfishing for scallops and should be given a chance to work before major changes are made.

Full-Year Implementation

Comment: The licensing process will not be synchronized with the calendar year permitting system.

Response: These administrative considerations are outweighed by the need to begin the effort-reduction program as soon as possible. The economic viability of the industry in the second year of the program depends, in part, on achieving improvements in yield-per-recruit through effort reductions in the first year. Such first year effort-reduction benefits would be dissipated if the reduction measures are not changed to a non-calendar year basis. Any need to make adjustments to the licensing system to address administrative problems can be made in the future. Having the permitting

process on a different time schedule than the licensing process does not interfere in any significant way with the administration or objectives of Amendment 4.

Scallop Ring Linkage

Comment: Scallopers should be able to use triple linking in the bottom of the dredge to minimize the need for repairs and because there is little or no escapement through the bottom of the dredge.

Response: The measure to prohibit triple links in the dredge has been modified through this framework adjustment to allow triple linking in the bottom of the dredge.

Classification

This regulation is not subject to the requirements to prepare a proposed rule because adequate opportunity was provided for prior public comment when the action was proposed and discussed over the course of several Council meetings. Because no proposed rule was required, this action is exempt from the procedures of the Regulatory Flexibility Act.

This final rule is exempt from review under E.O. 12866.

The Assistant Administrator for Fisheries, NOAA finds there is good cause to waive prior notice under 5 U.S.C. 553(b)(B). Public meetings held by the Council to discuss the management measures implemented by this rule provided adequate opportunity for public comment to be considered. Thus, additional opportunity for public comment is unnecessary.

List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: July 13, 1994.

Charles Karnella,

Acting Program Management Officer,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 650 is amended as follows:

PART 650—ATLANTIC SEA SCALLOP FISHERY

1. The authority citation for part 650 continues to read as follows:

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

2. Section 650.2 is amended by adding definitions for "dredge bottom," "fishing year," and "link," in alphabetical order to read as follows:

§ 650.2 Definitions.

Dredge bottom means the rings and links found between the bail of the

dredge and the club stick which, when fishing, would be in contact with the sea bed. This definition includes the triangular shaped portions of the ring bag commonly known as "diamonds."

Fishing year means the 12-month period beginning March 1 and extending through the end of February of the following year.

Link means the material, usually made of a 3/8-inch (10-mm) or 7/16-inch (11-mm) diameter metal rod, which joins two adjacent rings within the ring bag of a dredge.

3. Section 650.9 is amended by revising paragraphs (b)(8), (b)(11), (b)(14), (b)(15), (b)(16), (c)(2), (c)(5), and (c)(6) to read as follows:

§ 650.9 Prohibitions.

(h) * * *

(8) Possess more than 40 lb (18.14 kg) of shucked scallops or 5 U.S. bushels (176.2 L) of in-shell scallops while in possession of, or participate in the DAS allocation program with, trawl nets that have a maximum sweep exceeding 144 ft (43.9 m), as measured by the total length of the footrope that is directly attached to the webbing of the net, except as specified in § 650.21(a)(2)(iii).

(11) Possess more than 40 lb (18.14 kg) of shucked scallops or 5 U.S. bushels (176.2 L) of in-shell scallops while in possession of, or participate in the DAS allocation program with, dredge gear that has a maximum combined dredge width exceeding 31 feet (9.4 m), measured at the widest point in the bail of each dredge, except as specified in § 650.21(b)(1).

(14) Possess more than 40 lb (18.14 kg) of shucked scallops or 5 U.S. bushels (176.2 L) of in-shell scallops while in possession of, or participate in the DAS allocation program with, dredge gear that uses links between rings of the gear or ring configurations that do not conform to the specifications described in § 650.21(b)(4)(ii).

(15) Possess more than 40 lb (18.14 kg) of shucked scallops or 5 U.S. bushels (176.2 L) of in-shell scallops while in possession of, or participate in the DAS allocation program with, dredge gear that uses cookies or chafing gear, or other gear, means, or devices on the top half of a dredge that obstruct the openings in or between the rings, except as specified in § 650.21(b)(4).

(16) Participate in the DAS allocation program with more than the number of

persons specified in § 650.21(c), including the operator, on board when the vessel is not docked or moored in port, unless otherwise authorized by the Regional Director.

* * * * *

(c) * * *
 (2) Possess more than 40 lb (18.14 kg) of shucked scallops or 5 U.S. bushels (176.2 L) of in-shell scallops while in possession of, or fish for scallops with, dredge gear that has a maximum combined dredge width exceeding 31 ft (9.4 m), measured at the widest point in the bail of each dredge, except as specified in § 650.21(b)(1).

* * * * *

(5) Possess more than 40 pounds (18.14 kg) of shucked scallops or 5 U.S. bushels (176.2 L) of in-shell scallops while in possession of, or fish for scallops with, dredge gear that uses links between rings of the gear or ring configurations that do not conform to the specifications described in § 650.21(b)(4)(ii).

(6) Possess more than 40 lb (18.14 kg) of shucked scallops or 5 U.S. bushels (176.2 L) of in-shell scallops while in possession of, or fish for scallops with, dredge gear that uses cookies or chafing gear, or other gear, means, or devices on the top half of a dredge that obstruct the openings in or between the rings, except as specified in § 650.21(b)(4).

* * * * *

4. Section 650.21 is amended by revising paragraphs (a)(1), (b)(1), (b)(4)(ii), (b)(4)(iii), and (c) to read as follows:

§ 650.21 Gear and crew restrictions.
 (a) * * *
 (1) *Maximum sweep.* The trawl sweep of nets in use by or available for immediate use, as specified in paragraph (a)(2)(iii) of this section, shall not exceed 144 ft (43.9 m) as measured by the total length of the footrope that is directly attached to the webbing of the net.

* * * * *

(b) * * *
 (1) *Maximum dredge width.* The combined dredge width in use by or in possession on board such vessels shall not exceed 31 ft (9.4 m) measured at the widest point in the bail of the dredge, except as provided under paragraph (e) of this section. However, component parts may be onboard the vessel such that they do not conform with the definition of "dredge or dredge gear" in § 650.2, i.e., the metal ring bag and the mouth frame, or bail, of the dredge are not attached, and such that no more than one complete spare dredge could be made from these component parts.

* * * * *

(4) * * *
 (ii) *Link restrictions.* No more than double links between rings shall be used in or on all parts of the dredge bag except the dredge bottom. No more than triple linking shall be used in or on the dredge bottom portion and the diamonds. Damaged links which are connected to only one ring, i.e., "hangers", are allowed unless they occur between two links that both couple the same two rings (see Figure 1 to part 650). Dredge rings may not be attached via links to more than four

adjacent rings. Thus, dredge rings will be rigged in a configuration such that, when a series of adjacent rings are held horizontally, the neighboring rings form a pattern of horizontal rows and vertical columns (see Figure 1 to part 650).

(iii) *Dredge or net obstructions.* No material, device, net, dredge, ring, or link configuration or design shall be used if it results in obstructing the release of scallops that would have passed through a legal sized and configured net and dredge as, described in this part, that did not have in use any such material, device, net, dredge, ring link configuration or design.

* * * * *

(c) *Crew restrictions.* Limited-access vessels participating in or subject to the scallop DAS allocation program may have no more than seven people on board when not docked or moored in port through December 31, 1994, and nine people on board when not docked or moored in port thereafter, including the operator, unless participating in the small dredge program specified in paragraph (e) of this section, or otherwise authorized by the Regional Director.

* * * * *

5. Section 650.24 is amended by revising paragraph (c)(1) as follows:

§ 650.24 Days-at-sea (DAS) allocations.
 * * * * *

(c) * * *
 (1) *Annual DAS allocations.* The annual allocations of DAS for each category of vessel specified in paragraph (a) of this section shall be based on fishing years described as follows:

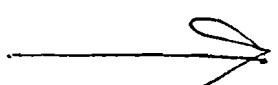
DAS category	1994-95	1995-96 and 1996-97	1997-98	1998-99 and 1999-2000	2000+
Full-time	204	182	164	142	120
Part-time	91	82	66	57	48
Occasional	18	16	14	12	10

Each fishing year shall begin on March 1 and extend 12 months through the last day of February of the following year.

* * * * *

6. Figure 1 is added to the end of part 650 as follows:

BILLING CODE 3510-22-P



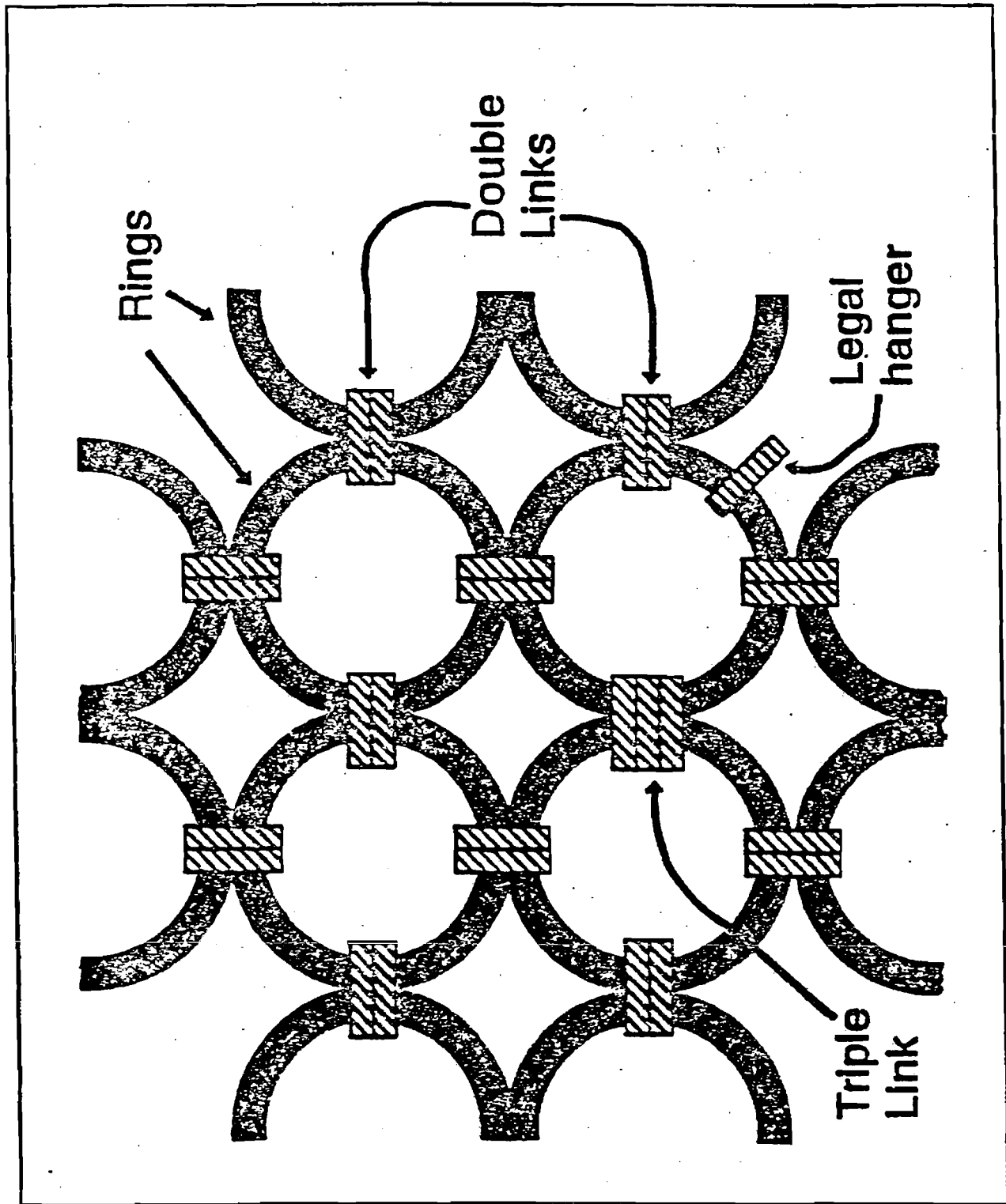


Figure 1 to Part 650-Schematic example of a legal dredge ring pattern. A triple link is shown that is legal only in the dredge bottom. A legal broken link (i.e. hanger) is also shown. Not drawn to scale.