Register notice on November 30, 1988, 53 FR 48364. No comments were received.

For the 1988/89 fishing season, fishing for *Champsocephalus gunnari* (mackerel icefish) is prohibited from November 4, 1988, to November 20, 1989, in Convention statistical reporting subarea 48.3, except for scientific research purposes. In order to avoid bycatch of this species, fishing is also prohibited for other species of finfish normally taken on the same grounds. Therefore, no *Nothothenia rossii* (marbled rockcod), *N. gibberifrons* (humped rockcod), *Chaenocephalus aceratus* (blackfin icefish), or *Pseudochaenichthys georgianus* (South Georgia icefish) may be taken in Convention statistical reporting subarea 48.3, from November 4, 1988, to November 20, 1989, except for scientific research purposes.

The reporting system for *C. gunnari* that was established at 50 CFR 380.24 for the 1977–88 fishing season is modified to require the reporing of *Patagonotothen brevicauda guntheri* (Patagonian rockcod) rather than *C. gunnari*. As required by 50 CFR 380.26 (a), the Secretary announces that the catch of *P. b. guntheri* in Convention statistical reporting subarea 48.3 for the 1988/89 season is limited to 13,000 tons. If this seasonal catch limitation for *P. b. guntheri* set by the Commission is reached before the end of the season the closure of the fishery will be announced in the **Federal Register** and NMFS will notify the designated representative of the holder of a permit to fish in Convention statistical reporting subarea 48.3 of the date of the closure of the fishery, pursuant to 50 CFR 380.26(b).

Classification

The Secretary of Commerce has determined that this rule is necessary to implement the Antarctic Marine Living Resources Convention Act of 1984 and to give effect to the conservation and management measures adopted by the Commission for the Conservation of Antarctic Marine Living Resources and agreed to by the United States.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) prepared a framework environmental assessment (EA) for the implementation of the Antarctic Marine Living Resources Convention Act of 1984 in 1987. NMFS has reviewed this rule and determined that the actions it requires were generally summarized in the framework EA and are thus excluded from further National Environmental Policy Act analysis.

This action is exempt from Executive Order 12291 and section 553 of the Administrative Procedure Act because it involves a foreign affairs function of the United States. Because notice and comment rulemaking is not required for this rule, the Regulatory Flexibility Act does not apply; therefore, a regulatory flexibility analysis has not been prepared. At present there are no U.S. vessels or vessels subject to the jurisdiction of the United States harvesting Antarctic marine living resources within the area to which these regulations apply, except for research purposes. Presently, the only Antarctic resources affected are scientific specimens taken under National Science Foundation permits and by the U.S. Antarctic Marine Living Resources directed research program. Accordingly, these regulations should not have an incremental impact on U.S. vessels harvesting or performing associated activities in the Convention area.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of information has been approved by the Office of Management and Budget under Control Number 0648–0194.

The annual reporting burden for this collection of information is estimated to average one-hour per harvester, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Robin Tuttle, National Marine Fisheries Service, 1335 East-West Highway, Room 7240, Silver Spring, Maryland 20910 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 380

Antarctic, Fish and wildlife, Reporting and recordkeeping requirements.

Dated: January 26, 1989.

James W. Brennan,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble of this rule, 50 CFR Part 380 is amended as follows:

PART 380—ANTARCTIC MARINE LIVING RESOURCES CONVENTION ACT OF 1984

1. The authority citation for Part 380 continues to read as follows:

Authority: 16 U.S.C. 2431 *et seq*

§§ 380.24 [Amended]

2. In § 380.24 of Subpart B, paragraph (b) is amended by substituting "*Patagonotothen brevicauda guntheri*" for "*Champsocephalus gunnari*" and "*P. b. guntheri*" for "*C. gunnari*" each time they appear.

3. New § 380.27 is added to Subpart B to read as follows:

§ 380.27 Closure of Convention statistical reporting subarea 48.3.

From November 4, 1988, until November 20, 1989, no *C. gunnari* (Mackerel icefish), *Notothenia rossii* (Marbled rockcod), *N. gibberifrons* (Humped rockcod), *Chaenocephalus aceratus* (Blackfin icefish), or *Pseudochaenichthys georgianus* (South Georgia icefish) may be taken in subarea 48.3.

[FR Doc. 89–2242 Filed 1–30–89; 8:45 am]

BILLING CODE 3510–22–M

---

50 CFR Part 651

[Docket No. 81128–9007]

Northeast Multispecies Fishery

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to amend the rule implementing the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) Amendment 2 (Amendment) will improve the overall effectiveness of existing management measures and enhance the conservation of the groundfish stocks. The intended effect of the rule is to afford better protection of the groundfish stocks to support both commercial and recreational fisheries

EFFECTIVE DATE: February 27, 1989 except for the measure establishing a regulated mesh area on Nantucket Shoals (§ 651.20(a)(2)) which is effective January 27, 1989. Public inspection and the measure requiring 5½ inch mesh throughout the net (§ 651.20(b)(1)(ii)) which is effective January 1, 1990.

ADDRESSES: Copies of the Amendment, the environmental assessment (EA), the regulatory impact review (RIR), and other supporting documents are available from Douglas Marshall, Executive Director, New England

Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01908.

FOR FURTHER INFORMATION CONTACT: Jack Terrill (Resource Policy Analyst) 508–281–3600, ext. 252.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council (Council) prepared and submitted Amendment 2 to amend the FMP. A notice of availability was published on October 11, 1988 (53 FR 39627; corrected at 53 FR 44975, November 7, 1988) and the proposed rule on November 9, 1988 (53 FR 45301; corrected at 53 FR 47299, November 22, 1988). The amendment contains actions that are expected to improve the effectiveness of several of the existing FMP measures in relation to two major factors: (1) The promotion of regulatory compliance, and (2) the long-term achievement of management objectives. This amendment also adopts a management measure that had previously been implemented in February 1988 (53 FR 5773, February 26, 1988) as an emergency action.

Amendment 2 contains nine specific changes and additions to the management system. These are as follows:

1. An increase in the minimum fish size (total length, TL) for yellowtail flounder from 12 inches to 13 inches and for American plaice (dab) from 12 inches to 14 inches.

2. An indefinite postponement of the scheduled increase in regulated mesh (to 6 inches) in the Georges Bank portion of the Regulated Mesh Area. Alternatively, vessels operating in the Regulated Mesh Area will only be permitted to use nets with mesh no smaller than the regulated size throughout the net, effective January 1, 1990.

3. A modification to the language that allows nets of smaller than the regulated mesh aboard but not in use in the Regulated Mesh Area, by removing from § 651.20(f) paragraphs (3) and (4) and replacing them with "nets which are secured in a manner approved by the Regional Director".

4. Adopt regulatory language to facilitate non-reissuance of Exempted Fishery Program permits when participants have not complied with reporting requirements.

5. Establish a trip bycatch limit of 25 percent regulated species for vessels operating in the Exempted Fishery Program.

6. A prohibition on trawl vessels from entering Closed Area II during the period of seasonal closure.

7. The establishment of a minimum size of 9 inches (TL) for redfish.

8. Minimum fish sizes shall apply to both commercial and recreational fishermen.

Species	Recreational minimum size (inches)
Atlantic cod	19
Haddock	19
Pollock	19
Witch flounder (gray sole)	14
Yellowtail flounder	13
American plaice (dab)	14
Winter flounder (blackback)	11
Redfish	9

9. A Regulated Mesh area will be implemented for the months of December through March in an area designated as Nantucket Shoals.

Comments and Responses

Written comments were submitted by the U.S. Coast Guard, Department of the Interior, Portland Fish Exchange, New England Fishery Management Council and one individual. Several commenters supported approval of the Amendment.

Comment: The Portland Fish Exchange objected to the 25 percent bycatch by weight of regulated species allowed per trip in the Exempted Fisheries Program when shrimp is declared as the target species. They asked that shrimp landing slips be used rather than the actual amount on board the vessel upon landing to allow for the practice of holding over the regulated species for sale later. They asked for clarification of the measure and how it would be enforced.

Response: The measure was developed to respond to concerns that directed effort on regulated groundfish while in the exempted fisheries program would result in discard mortality of juvenile fish, and that the bycatch amount over the entire period of participation in the program was being used as an allocation rather than as true bycatch. Enforcement was hampered by the inability to enforce the bycatch provision at dockside where it applied to the entire time period. It was determined that a 25 percent bycatch of regulated species on a trip basis was necessary to protect juvenile regulated species and to insure attainment of Council intent. The determination of 25 percent was based on actual landing practices and was found to have a minimal impact. Exceptions to the measure could provide loopholes which would undermine effective enforcement and jeopardize the juvenile regulated species. The measure is implemented as proposed.

Comment: One commenter objected to the increased minimum sizes without a corresponding increase in mesh size which will result in discards. The commenter also requested a minimum mesh size of 3 inches for whiting.

Response: The minimum fish sizes specified agree more closely with the target retention levels of the other regulated species for a 5½ inch mesh net. The measures contained in the amendment are intended to insure the effective mesh in use is 5½ inches. A minimum mesh size in the Exempted Fishery Program has not been addressed in this amendment.

Comment: The Council commented that the preamble should note the need for early implementation of the regulated mesh area on Nantucket Shoals to protect large concentrations of juvenile Atlantic cod.

Response: Due to the large concentrations of juvenile cod presently occurring in the Nantucket Shoals area and the high mortality that will result from their discard, the Under Secretary for Oceans and Atmosphere, NOAA, (Under Secretary) has determined that it is in the best interest of the resource and the public to waive the Administrative Procedure Act delayed effectiveness period for this part of the Amendment.

Comment: The Council commented that the proposed rule failed to specify the implementation date of January 1, 1990 for the measure requiring the minimum mesh size throughout the net.

Response: The implementation date was stated in the preamble of the proposed rule and has been added as § 651.20(b)(1)(ii) of the final rule.

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

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

Classification

The Director, Northeast Region, NMFS, (Regional Director) determined that this Amendment is necessary for the conservation and management of the Northeast multispecies fishery and that it is consistent with the Magnuson Fishery Conservation and Management Act and other applicable law.

The Council prepared an EA for the Amendment and concluded that there will be no significant impact on the environment as a result of this rule. You may obtain a copy of the assessment from the Council at the address listed above (see ADDRESSES).

The Under Secretary determined that this rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291.

The Under Secretary also finds that, due to the possibility of high mortality of juvenile Atlantic cod in the Nantucket Shoals area and the high mortality that will result from their discards, there is good cause to make the measure establishing a seasonal regulated mesh area for this area immediately effective under section 553(d) of the Administrative Procedure Act.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

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

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

Changes to the Proposed Rule

1. In § 651.20(a)(1)(i), the table entries for Points F, L and M are revised to correct errors.

2. In § 651.20(a)(1)(ii), the table entry for Point A is revised to correct an error.

3. In § 651.20(b)(1), an expiration date for the present provision and a new § 651.20(b)(1)(i) and § 651.20(b)(1)(ii) have been added to clarify the effective date for the new provision which more accurately reflects Council intent under the FMP.

4. In § 651.20(f), the first sentence is revised to clarify the scope of the provision and to make it consistent with the prohibition on use of liners set forth in § 651.20(e)(2).

Other changes

1. In § 651.21(a)(1), a technical change has been made to the second table entry for Point A to correct an error contained in the final rule implementing Amendment 1 to the FMP (52 FR 35098).

List of Subjects in 50 CFR Part 651

Fishing, Fisheries, Vessel permits and fees.

Dated: January 26, 1989.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, NOAA amends 50 CFR Part 651 as follows:

PART 651—[AMENDED]

1. The authority citation for 50 CFR Part 651 continues to read as follows:

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

2. Section 651.7 is amended by adding new paragraph (b)(11) to read as follows:

§ 651.7 Prohibitions.

* * * * *

(b) * * *

(11) Enter the area described in § 651.21(a)(2) during a period in which that area is closed, unless allowed by § 651.21(a).

* * * * *

3. Section 651.20 is amended by revising paragraphs (a) (1) and (2), (b)(1), (c)(2), (d)(1) introductory text and (2), and (f) introductory text and (3) to read as follows:

§ 651.20 Regulated mesh area and gear limitations.

(a) * * *

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

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

Point	Latitude	Longitude
L	Southward along the irregular U.S.-Canada maritime boundary from the territorial sea	
K	43°58' N.	67°22' W.
M	42°53.1' N.	67°44.4' W.
F	42°31' N.	67°28.1' W.
G	41°18.6' N.	66°24.8' W.

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

Point	Latitude, longitude	Loran C bearings
N1	40°55.5' N, 66°38.0' W.	5930–Y–30750 and 9960–Y–43500.
N2	40°45.5' N, 68°00 W.	9960–Y–43500 and 68°00' W.
N3	40°37.0' N, 68°00' W.	9960–Y–43450 and 68°00' W.
N4	40°30.5' N, 69°00' W.	9960–Y–43450 and 69°00' W.
N5	40°22.7' N, 69°00' W.	9960–Y–43400 and 69°00' W.
Z	40°18.7' N, 69°40' W.	9960–Y–43400 and 69°40' W.
A	40°33.5' N, 69°40' W.	
B	41°35.0' N, 69°40' W.	
C	41°35.0' N and the territorial sea.	

NOTE.—Loran lines are included for the convenience of fishermen.

(iii) Northward along the territorial sea of Massachusetts, New Hampshire, and Maine to the U.S.-Canada maritime boundary at Point L.

(2) *Nantucket Shoals regulated mesh area* (Figure 4): Bounded by straight lines connecting the following points in the order stated:

Point	Latitude, longitude	Loran C bearings
NS1	41°24.0' N, 69°59.0' W.	9960–Y–43850 and 69°59' W.
NS2	41°28.0' N, 69°40.0' W.	9960–Y–43850 and 69°40' W.
NS3	41°56.5' N, 69°40.0' W.	9960–Y–43650 and 69°40' W.
NS4	41°51.5' N, 70°14.0' W.	9960–Y–43650 and 9960–X–25175.
NS5	41°00.0' N, 70°17.5' W.	9960–Y–25175 and 41°00' N.
NS6	41°10.0' N, 70°19.0' W.	9960–X–25175 and 41°10' N.
NS7	41°15.5' N, 70°18.5' W.	9960–X–25175 and 41°15.5' N.

and then to NS1 following the seaward limit of the territorial sea.

NOTE.—Loran lines are included for the convenience of fishermen.

(i) This area will be in effect for the months of December through March, inclusive, unless suspended pursuant to § 651.20(a)(2)(ii).

(ii) The Regional Director may suspend this Regulated Mesh Area (RMA) by notice in the **Federal Register**, if he/she determines that concentrations of juvenile cod are not sufficiently abundant in the area to warrant protection by the RMA.

(b) *Trawl nets*—(1) *Diamond mesh.* (i) Except as provided for in §§ 651.20(b)(3), 651.20(d) and 651.22, the minimum mesh size for any trawl net, including midwater trawls, or Scottish seine used by a vessel fishing in the mesh area described in paragraphs (a)(1) and (a)(2) of this section is 5½ inches for at least 75 continuous meshes forward of the terminus of the net. This provision shall expire effective December 31, 1989.

(ii) Effective January 1, 1990, except as provided for in §§ 651.20(b)(3), 651.20(d) and 651.22, the minimum mesh size for any trawl net, including midwater trawls, or Scottish seine used by a

vessel fishing in the mesh area described in paragraphs (a)(1) and (a)(2) of this section is 5½ inches throughout the entire net.

* * * * *

(c) * * *

(2) In other portions of the New England area not subject to minimum mesh size restrictions under paragraph (b) of this section, the mesh in bottom-tending gillnets must be the same during the months of November through February as that in effect in the Regulated Mesh Area, as defined in paragraph (a)(1) of this section.

(d) *Midwater gear exception.* (1) For the RMA south of 42° N. latitude, fishing for Atlantic herring or blueback herring, mackerel, and squids may take place throughout the fishing year with mesh sizes less than the regulated size provided that:

* * * * *

(2) For the RMA north of 42° 20′ N. latitude, fishing for herring and mackerel may take place from December through May with mesh sizes less than regulated size, provided that the requirements of paragraphs (d)(1) (i) and (ii) of this section are met and that the bycatch of regulated species does not exceed 1 percent, by weight, of herrings and mackerel on board the vessel.

* * * * *

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

* * * * *

(3) Nets which are secured in a manner approved by the Regional Director. After review and approval, the Regional Director shall specify alternative manner(s) of securing nets by notice in the **Federal Register.**

§ 651.21 [Amended]

4. In § 651.21(a) the heading is revised to read "*Georges Bank*".

5. In § 651.21(a)(1), the second table entry for Point a is revised to read as follows:

Point	Latitude	Longitude
a	40°53′ N.	68°53′ W.

§ 651.22 [Amended]

6. In § 651.22(a)(1), the table entry for Point B is revised to read as follows:

Point	Latitude	Longitude
B	41°35′ N.	69°40′ W.

7. Section 651.22 is amended by revising paragraphs (c) and (e)(2) to read as follows:

§ 651.22 Exempted fishery program.

* * * * *

(c) *Certification.* (1) The Regional Director will certify in writing the entry of the applicant into the exempted fisheries program.

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

(3) The Regional Director may suspend current participation or deny entry into the exempted fishery program, or both, to an applicant if:

(i) The Regional Director determines that the applicant has failed to file reports as required by § 651.22(f); or

(ii) The applicant violates any provision of these regulations or of the Magnuson Act, providing a notice of violation and assessment for such violation has been issued to the applicant.

(4) With respect to any suspension or denial for failure to report under paragraph (c)(3)(i) of this section, the Regional Director may reinstate the applicant or approve the applicant's request to enter the exempted fishery program for subsequent reporting periods; if the applicant submits, and the Regional Director receives, completed missing reports. For missing reports received within 5 calendar days of suspension or denial, the Regional Director shall decide whether reinstatement is appropriate within 14 calendar days of receiving the missing reports. For missing reports received after the 5 calendar days of suspension or denial, the Regional Director shall decide within 30 calendar days of receiving the reports. The Regional Director's authority to suspend participation in or deny entry into the exempted fishery program is separate and distinct from any civil penalty assessed under § 651.7(b)(8).

* * * * *

(e) * * *

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

Period	Target species	Comments
June through November	Dogfish, herring, mackerel, ocean pout, red hake, silver hake, and squid.	Regulated species weight may not exceed 10% of the total landings of dogfish, herring, mackerel, ocean pout, red hake, silver hake, and squid during the reporting period. Regulated species weight may not exceed 25% of the combined weight of dogfish, herring, mackerel, ocean pout, red hake, silver hake, and squid on each trip.
December through January	Silver hake (whiting)	Regulated species weight may not exceed 10% of the total landings of silver hake and shrimp during the reporting period. Regulated species weight may not exceed 25% of the combined weight of silver hake and shrimp on each trip.
December through May, or as specified by ASMFC.[1]	Shrimp	Regulated species weight may not exceed 10% of the total landings of shrimp during the reporting period. Regulated species weight may not exceed 25% of the weight of shrimp on each trip.

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

8. Section 651.23 is amended by revising paragraph (a) to read as follows:

§ 651.23 Minimum fish size.

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

	Inches
Cod, haddock, and pollock	19
Witch flounder (gray sole)	14
Yellowtail flounder	13
American plaice (dab)	14
Winter flounder (blackback)	11
Redfish	9

* * * * *

9. In Part 651, Figures 1 and 4 are revised to read as follows:

BILLING CODE 3510-22-M

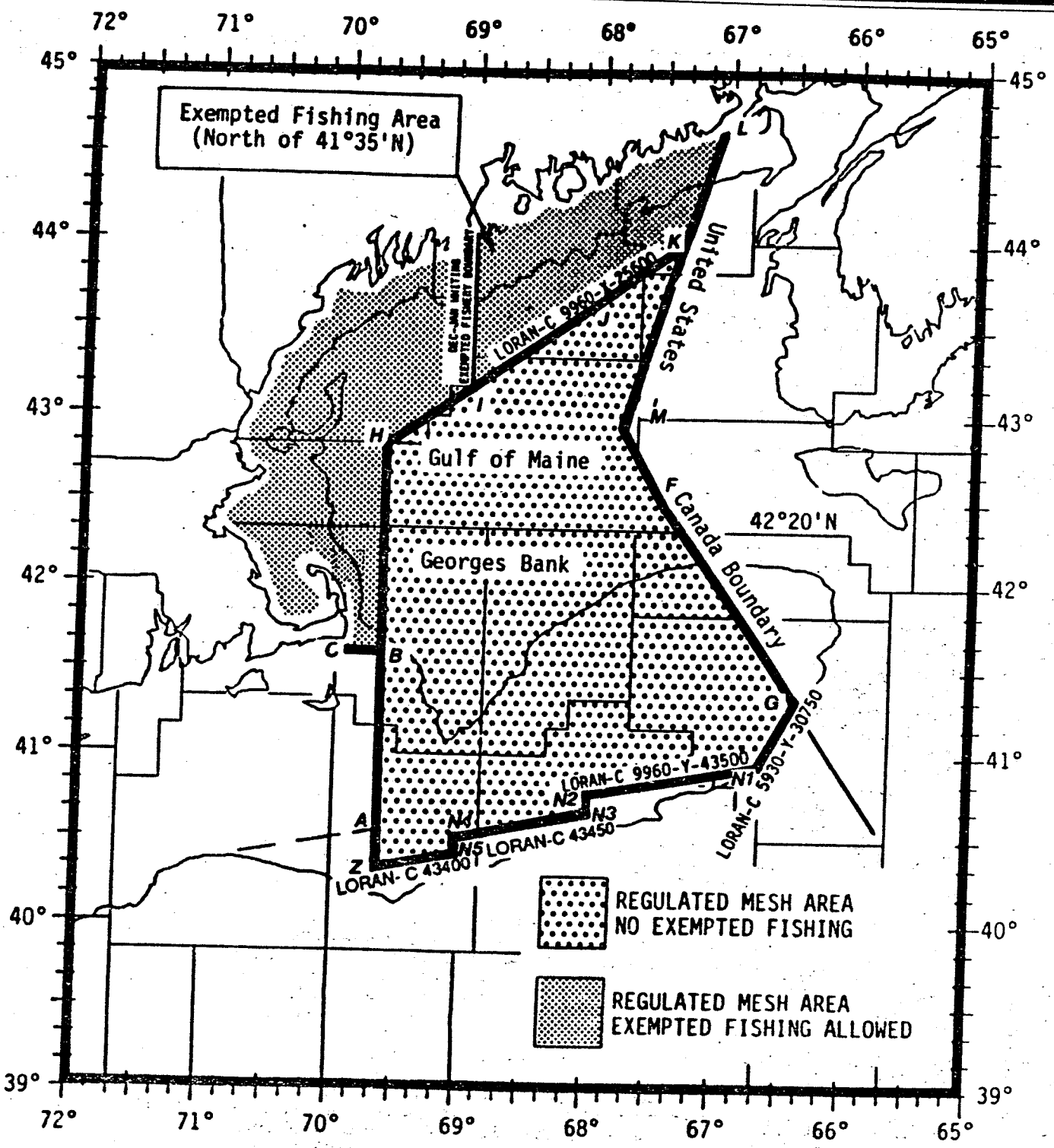

Figure 1. New England regulated mesh areas and areas of exempted and non-exempted fishing. See text for details. These areas are defined in 651.20(a)(1). Loran lines are included for the convenience of fishermen.

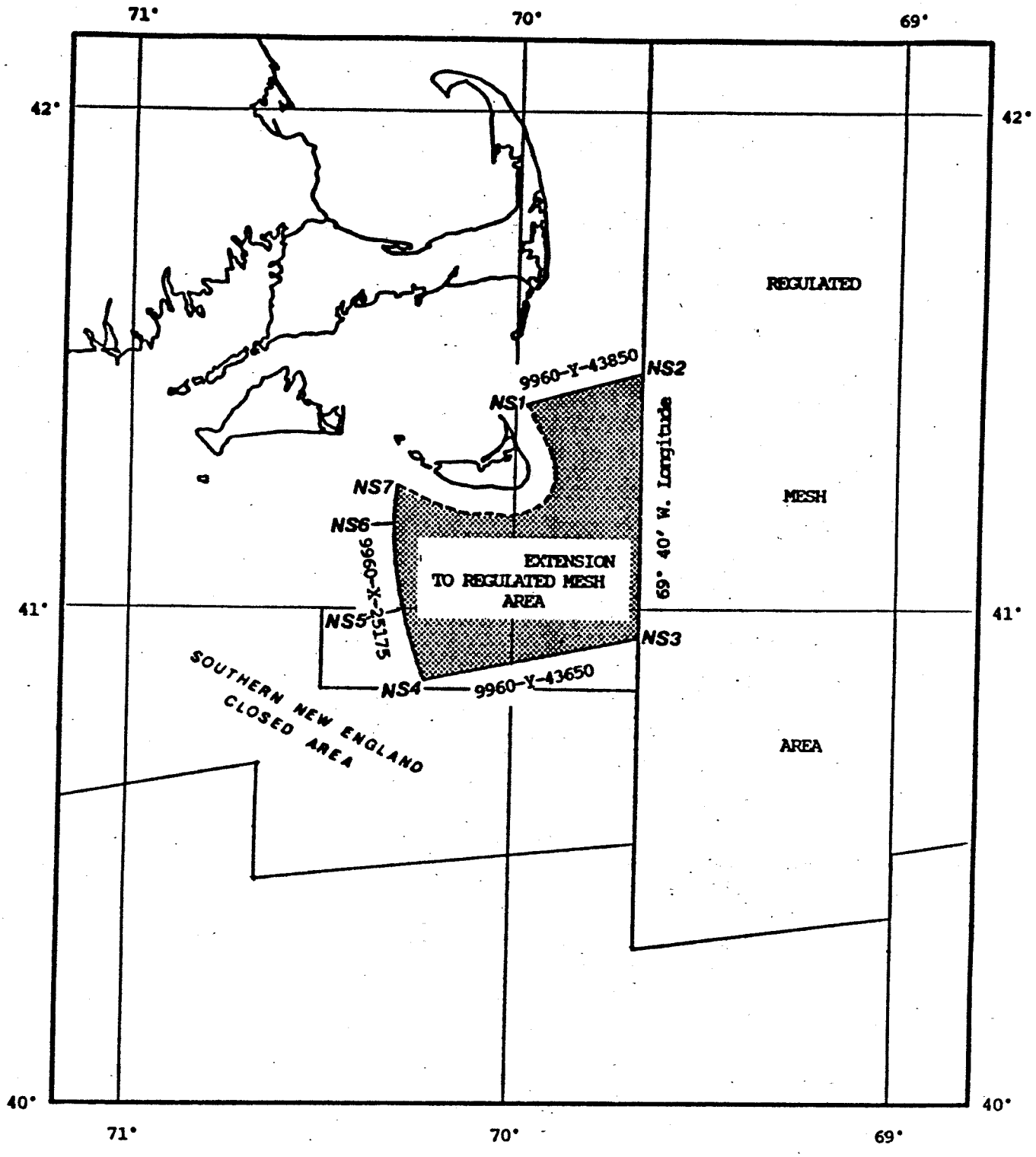

Figure 4. Nantucket Shoals regulated mesh area. See text for details. This area is defined in 651.20(a)(2). Loran lines are included for the convenience of fishermen.

[FR Doc. 89-2241 Filed 1-27-89; 10:41 am]

BILLING CODE 3510-22-C