

(4) If one or more species' take levels have been reached or exceeded during the previous year, additional documentation must be provided on the taking and a description of any measures that will be taken in the following year to prevent exceeding the authorized incidental take level.

(5) Results of any population assessment studies made on marine mammals in the Outer Sea Test Range during the previous year.

#### § 228.56 Renewal of Letter of Authorization.

(a) A Letter of Authorization issued under § 228.6 for the activity identified in § 228.51(a) will be renewed annually upon:

(1) Timely receipt of the reports required under § 228.55(f) and (g), which have been reviewed by the Assistant Administrator for Fisheries, NOAA, and determined to be acceptable;

(2) A determination that the maximum incidental take authorizations in § 228.51(b) will not be exceeded; and

(3) A determination that the mitigation measures required under § 228.53(b) and the Letter of Authorization have been undertaken.

(b) If a species' annual authorization is exceeded, the National Marine Fisheries Service will review the documentation submitted with the annual report required under § 228.55(g), to determine that the taking is not having more than a negligible impact on the species or stock involved.

(c) Notice of issuance of a renewal of the Letter of Authorization will be published in the Federal Register.

#### § 228.57 Modifications to Letter of Authorization.

(a) In addition to complying with the provisions of § 228.6, except as provided in paragraph (b) of this section, no substantive modification, including withdrawal or suspension, to the Letter of Authorization issued pursuant to § 228.6 and subject to the provisions of this subpart shall be made until after notice and an opportunity for public comment. For purposes of this paragraph, renewal of a Letter of Authorization under § 228.46, without modification, is not considered a substantive modification.

(b) If the National Marine Fisheries Service determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 228.51, or that significantly and detrimentally alters the scheduling of explosives detonation within the area specified in § 228.51, the Letter of Authorization

issued pursuant to § 228.6, or renewed pursuant to this section may be substantively modified without prior notice and an opportunity for public comment. A notice will be published in the Federal Register subsequent to the action.

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#### 50 CFR Part 651

[Docket No. 931066-4014; 122893C]

#### Northeast Multispecies Fishery

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

**ACTION:** Final rule.

**SUMMARY:** NOAA issues this final rule to implement gear requirements for vessels fishing for northern shrimp in the Northeast multispecies fishery during the 1993/94 fishing season. Vessels fishing for or possessing northern shrimp in the U.S. Exclusive Economic Zone (EEZ) and all Federally permitted fishing vessels fishing for or possessing northern shrimp are required to install and use a finfish excluder device throughout the fishing season and throughout the range. The intent of this requirement is to reduce the bycatch of groundfish in the small-mesh northern shrimp fishery.

**EFFECTIVE DATES:** January 31, 1994.

**ADDRESSES:** Copies of the referenced documents may be obtained from Richard B. Roe, Regional Director, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:** Martin Jaffe (Fishery Management Specialist, Northeast Region, NMFS), 508-281-9272.

**SUPPLEMENTARY INFORMATION:** The regulations implementing Amendment 4 (56 FR 24724, May 31, 1991) to the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) include a measure that requires the New England Fishery Management Council (Council) to make necessary recommendations to the Director, Northeast Region, NMFS (Regional Director), on gear requirements for vessels fishing for northern shrimp.

The Council's recommendation for the 1993/94 fishery that any vessel catching, harvesting or landing northern shrimp be required to use a finfish excluder device, particularly the Nordmore Grate (grate), with a rigid or semi-rigid bar spacing of not more than one inch (2.54 cm), throughout the

shrimp season, was published on November 8, 1993 (58 FR 59232). The notice also provided a summary of an economic analysis contained in an environmental assessment prepared by the Council to accompany its recommendation. The publication of the recommendation initiated a comment period, which concluded on December 3, 1993.

#### Comments and Responses

A comment on the Council's recommendation was received from the Center for Marine Conservation, which supported approval of the Council's recommendation.

This comment was considered in the agency's decision to approve the Council's recommendation.

#### Changes From the Proposed Rule to the Final Rule

Changes were made to all of the sections under § 651.20(b)(3)(vi), inclusive, to conform to the finfish excluder device requirement as published in the proposed rule to Amendment 5 to the multispecies FMP (58 FR 57774). All of the changes are for clarity and brevity. No substantive changes were made.

#### Classification

This action is authorized by 50 CFR part 651 and is consistent with the Magnuson Act and other applicable law.

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

The Assistant Administrator for Fisheries, NOAA, has determined that it is impracticable and contrary to the public interest to delay for 30 days the effective date of this rule under section 553(d) of the Administrative Procedure Act. Fishermen harvesting northern shrimp already are required to use Nordmore grates in state waters of Maine, New Hampshire, and Massachusetts and have had ample time to adjust to this requirement. Implementation of this same requirement in the EEZ provides similar requirements for fishermen throughout the range of the fishery.

#### List of Subjects in 50 CFR Part 651

Fishing, Fisheries, Vessel permits and fees.

Dated: January 27, 1994.  
Nancy Foster,  
Deputy Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For reasons set out in the preamble,  
50 CFR part 651 is amended as follows:

**PART 651—NORTHEAST  
MULTISPECIES FISHERY**

1. The authority citation for part 651  
continues to read as follows:

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

2. Section 651.20 is amended by  
adding paragraph (b)(3)(vi) to read as  
follows:

**§ 651.20 Regulated mesh area and gear  
limitations.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(vi) Pursuant to § 651.20(b)(3)(iv),  
beginning January 31, 1994, any vessel

issued a permit under § 651.4 that is  
fishing for, harvesting, possessing or  
landing northern shrimp, and any vessel  
fishing for, catching, harvesting or  
possessing northern shrimp in the EEZ,  
must have a properly configured and  
installed finfish excluder device in any  
net used to fish for or harvest northern  
shrimp, throughout the northern shrimp  
season as established or modified by the  
Atlantic States Marine Fisheries  
Commission. The finfish excluder  
device must be configured and installed  
consistent with the following  
specifications (see Figure 8 for an  
example of a properly configured and  
installed finfish excluder device):

(A) The finfish excluder device must  
be 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.

(B) The finfish excluder device must  
be 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 said  
fish or objects have first passed between  
the bars of the grate.

(C) A fish outlet or hole must be  
provided to allow fish or other objects  
that are too large to pass between the  
bars of the grate to pass out of the net.  
The aftermost edge of this outlet must  
be at least as wide as the grate at the  
point of attachment. Said fish outlet  
must extend forward from the grate  
toward the mouth of the net.

(D) A funnel of net material is allowed  
in the lengthening piece of the net  
forward of the grate to direct catch  
towards the grate.

3. Figure 6 is added to part 651 as  
follows:

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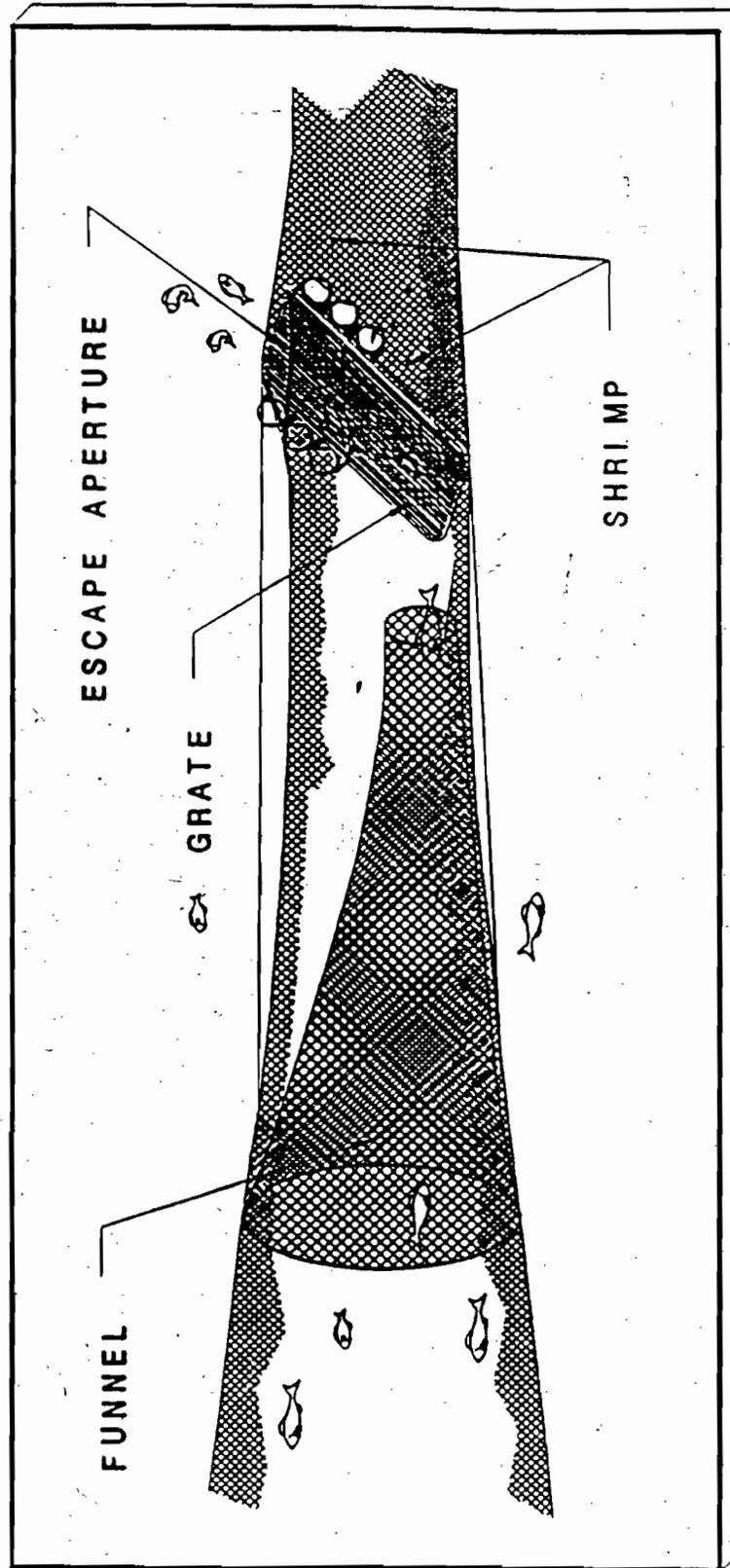


Figure 6. Nordmore grate.