

322 CMR 3.00: 1971 COMPILATION

Section

- 3.01: Transplanting Seed or Adult Oysters (Special Permit)
- 3.02: Use and Operation of Mobile Gear in Certain Territorial Waters of the Commonwealth
- 3.03: Taking of Anadromous Fish, Except Alewives and River Herring, in the Territorial Waters of Massachusetts
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3.01: Transplanting Seed or Adult Oysters (Special Permit)

- (1) No person shall plant, transplant or introduce for the purpose of transplanting seed or adult oysters into any waters or into any shellfish areas within the Commonwealth without first obtaining a special permit therefore from the director of Marine Fisheries.
- (2) Any violation of the provisions of this order is punishable by a fine of not less than \$10.00 nor more than \$1,000.00 or by imprisonment for one month or both.
- (3) Any oysters introduced or moved in violation of 322 CMR 3.01 shall be confiscated and destroyed.

3.02: Use and Operation of Mobile Gear in Certain Territorial Waters of the Commonwealth

(1) Definitions.

Mobile Gear means any movable fishing gear or nets which are towed, hauled or dragged through the water for the harvest of fish, squid, and shellfish including but not limited to otter trawls, beam trawls, bottom and mid-water pair trawls, Scottish seines, Danish seines, Pair seines, and sea scallop dredges.

NOAA Chart means the official and reproduced nautical charts of the National Oceanic and Atmospheric Administration, United States Department of Commerce.

Territorial Seas Line means that line as it appears on NOAA charts.

Line of 1881 means the otter and beam trawl line otherwise known as the old exterior line of the Commonwealth as defined by St. 1881, c. 196.

(2) North Shore Region Year-round Closure (New Hampshire Border to Winthrop). It is unlawful to use mobile gear in territorial waters encompassed by an imaginary line beginning at the shoreline in Winthrop; thence following the Loran C 44290 line in an easterly direction to the line of 1881; thence in a northeasterly direction along the line of 1881 to its intersection with the territorial seas line; thence in a northeasterly direction along the territorial seas line to the seaward junction of the New Hampshire/Massachusetts boundary; thence shoreward along the New Hampshire/Massachusetts boundary to the shoreline; thence in a southerly direction to the starting point, except as provided for in 322 CMR 3.02(2)(a) and (b) as subject to the provisions of 322 CMR 3.04(2)(c), and as provided for in 322 CMR 4.02: *Use of Nets in Inshore Restricted Waters* dealing with the use and regulation of nets in inshore waters.

(a) Area 6 Opening (New Hampshire Border to Rockport). Subject to the provisions of 322 CMR 3.02(2)(c) and the groundfish closures in 322 CMR 8.12: *Groundfish Closures in the Gulf of Maine*, it is lawful to use mobile gear from December 15th through April 30th in an area beginning at the intersection of the northerly Rockport/Gloucester town line and the territorial seas line; thence along the territorial seas line to the Massachusetts/New Hampshire boundary; thence shoreward along the boundary to a point one nautical mile from shore; thence in a southerly direction along an imaginary line parallel to and one nautical mile from shore to a point on the Rockport/Gloucester town line one nautical mile from shore; thence seaward to the starting point.

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(b) Area 5 Opening ("Whiting Area" off Rockport). Subject to the provisions of 322 CMR 3.02(2)(c), it is lawful to use mobile gear from February 1st through March 31st and from June 15th through September 30th in an area beginning at a point 2.80 nautical miles from shore on the northernmost Gloucester/Rockport marine boundary; thence 136° true 4.35 nautical miles to a point 055° true 1.85 nautical miles from Straitsmouth Island Light; thence 162° true 1.40 nautical miles to a point 100° true 1.85 nautical miles from Straitsmouth Island Light; thence 180° true 1.65 nautical miles to a point 137° true 2.70 nautical miles from Straitsmouth Island Light; thence 210° true 2.60 nautical miles to a point on the southernmost Gloucester/Rockport marine boundary where said boundary line intersects a line bearing 130° true 2.70 nautical miles from Salt Island; thence seaward along the southernmost Gloucester/Rockport marine boundary to the territorial seas line of the Commonwealth; thence northerly along said line to its intersection with the northernmost Gloucester/Rockport marine boundary; thence shoreward along said boundary to the starting point.

(c) Special Permit Conditions.

1. A special permit shall be obtained from the Director on an annual basis to fish in Areas 5 and 6.
2. The intent of this regulated fishery is to provide access to coastal waters for smaller and/or older trawlers, and special permits shall be limited to vessels that usually fish and land their catch on a daily basis.
3. Trawl nets shall have a sweep or footrope no greater than 80 feet. Sweeps or footropes shall be chain, wire or discs. No roller gear shall be allowed. In addition, during the month of September in the Area 5 opening, raised footrope trawl nets shall be used as specified in 322 CMR 8.14: *Upper Cape Cod Whiting Area(2)*.
4. Use of mobile gear shall be allowed only during daylight hours defined as the period from ½ hour before sunrise to ½ hour after sunset. It is a violation of 322 CMR 3.00 to have mobile gear in the water before or after this period.
5. Conflicts with properly set and marked, regularly tended fixed fishing gear shall be avoided.
6. No lobsters shall be possessed or be on board any vessel while in Areas 5 and 6, whether taken within or outside Areas 5 and 6, for any period longer than that required to return them safely to the water.
7. Annual catch reports are required, and as a condition of this permit, all holders agree to allow Division agents safe access to their vessels during fishing operations.
8. The Director shall have the authority to revoke permits, suspend fishing operations, limit the hours and dates of operation within the time periods of permitted fishing, limit the number of permits, limit quantities of fish to be taken, or take any other action which, in his judgement, shall prevent conflicts between user groups and prevent overharvesting of the resources.

(3) Area 4 (Outer Boston Harbor) April 1st through December 31st Closure. It is unlawful to use mobile gear during the period April 1st through December 31st in territorial waters encompassed by an imaginary line beginning at the intersection of the Loran C 44250 line with the shoreline of the town of Hull; thence following the 44250 line to the line of 1881; thence following the line of 1881 in a northerly direction to the intersection with the Loran C 44290 line; thence following the 44290 line in a westerly direction to the intersection with the Loran C 25840 line; thence following the 25840 line in a southerly direction to the intersection with the Loran C 14015 line; thence following the 14015 line in a southerly direction to the intersection with the shoreline of the town of Hull; thence following the shoreline to the starting point.

(4) Area 3 (Hull to Plymouth) April 1st through October 31st Closure. It is unlawful to use mobile gear during the period April 1st through October 31st in territorial waters encompassed by an imaginary line beginning at the shoreline of the town of Hull, thence following the Loran C 44250 line to the line of 1881; thence following the line of 1881 in a southerly direction to its intersection with the territorial seas line; thence following said line in a southerly direction to its intersection with an imaginary line drawn from Gurnet Point in Plymouth to Race Point in Provincetown; thence following said imaginary line in a westerly direction to the shoreline of Plymouth; thence following the shoreline to the starting point.

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(5) Area 2(b) (Plymouth to Provincetown) May 1st through October 31st Closure. It is unlawful to use mobile gear during the period May 1st through October 31st in territorial waters encompassed by an imaginary line beginning at the shoreline of Gurnet Point Plymouth; thence following in an easterly direction along an imaginary line drawn from Gurnet Point to Race Point in Provincetown to the intersection of said imaginary line with the line of 1881; thence following the line of 1881 around Cape Cod Bay to its intersection with the imaginary line from Gurnet Point to Race Point; thence easterly along said line to the shoreline of Race Point; thence in a southerly direction following the shoreline to the starting point; except that waters which lie within the following area are excluded: beginning at a point on the imaginary line from Gurnet Point to Race Point 1.0 nautical mile from Race Point Light; thence running 132° true to the 70° 10' W meridian of longitude; thence running 180° true to the line of 1881; thence following the line of 1881 in a northerly direction to the imaginary line from Gurnet Point to Race Point, thence running easterly along said line to the point of beginning.

(6) Area 2(a) (Eastham to Mashpee) May 1st through October 31st Closure. It is unlawful to use mobile gear during the period May 1st through October 31st in territorial waters encompassed by an imaginary line beginning at Nauset Light in Nauset; thence following the 41° 51.6' N parallel of latitude to a point where it intersects the territorial seas line; thence following the territorial seas line in a southerly direction to a point where the territorial seas line intersects the 70° 00' W meridian of longitude; thence in a northerly direction along the 70° 00' W meridian of longitude to a point where it intersects the line of 1881; thence in a westerly direction following the line of 1881 to a point where it intersects with the territorial seas line and the Loran C 9960-X-25190 line; thence following the territorial seas line to its intersection with a straight line drawn from Succunnesset Point in the town of Mashpee to Cape Pogue in the town of Edgartown; thence following the imaginary line in a northerly direction to the shoreline at Succunnesset Point; thence following the shoreline to the starting point.

(7) Area 1(a) (Nantucket Island North Shore) April 1st through April 30th Closure. It is unlawful to use mobile gear during the period April 1st through April 30th in territorial waters encompassed by an imaginary line beginning at Great Point in the town of Nantucket; thence following the imaginary line from Great Point to Monomoy Point to a point where it intersects the territorial seas line; thence following the territorial seas line in a westerly direction to a point where it intersects with an imaginary line which extends the Nantucket/Edgartown town waters line in a northerly direction; thence in a southerly direction along the extended Nantucket/Edgartown town waters line to a point where it intersects an imaginary line drawn from Cape Pogue in the town of Edgartown to Eel Point in the town of Nantucket; thence following the imaginary line from Cape Pogue to Eel Point in a southeasterly direction to the shoreline of Eel Point; thence following the shoreline to the starting point.

(8) Area 1(b) (Great Point to Nantucket Harbor) June 1st through September 15th Closure. It is unlawful to use mobile gear, except for scallop and surf clam dredges, during the period June 1st through September 15th in territorial waters encompassed by an imaginary line beginning at the most northerly end of Great Point in the town of Nantucket; thence following the imaginary line from Great Point to the light at the end of the easternmost jetty at the entrance of Nantucket Harbor; thence along the jetty to the shore and northeasterly to the starting point.

(9) Reservation. Nothing in 322 CMR 3.02(7) or (8) is intended to supercede or repeal the provisions of St. 1907, c. 301.

(10) Falmouth to Mashpee Shoreline Closures.

(a) 1/4-mile closure. It is unlawful to use mobile gear during the period April 23rd through May 31st in an area encompassed by a line beginning at the shoreline at Succunnesset Point in the town of Mashpee; thence seaward for 1/4 nautical mile along a straight line extending from Succunnesset Point to Cape Pogue in the town of Edgartown, the western boundary of Area 2(a) described in 322 CMR 3.04(6); thence in a westerly direction along a line parallel to and 1/4 nautical mile from shore to its intersection with the Loran C 9960-W-14130 line; thence shoreward along the Loran C 14130 line to the shore at Nobska Point in the town of Falmouth; thence following the shoreline in an easterly direction to the starting point.

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(b) ½-mile Closure. It is unlawful to use mobile gear during the period June 1st through October 31st in an area encompassed by a line beginning at the shoreline at Succunneset Point in the town of Mashpee; thence seaward for ½ nautical mile along a straight line extending from Succunneset Point to Cape Pogue in the town of Edgartown, the western boundary of Area 2(a) described in 322 CMR 3.04(6); thence in a westerly direction along a line parallel to and ½ nautical mile from shore to its intersection with the Loran C 9960-W-14130 line; thence shoreward along the Loran C 14130 line to the shore at Nobska Point in the town of Falmouth; thence following the shoreline in an easterly direction to the starting point.

(11) Cuttyhunk Island to Falmouth Shoreline Closure. It is unlawful to use mobile gear during the period May 1st through October 31st in an area encompassed by a line beginning at the shoreline at Nobska Point in the town of Falmouth; thence seaward for ¼ nautical mile along the LORAN C 9960-W-14130 line; thence in a westerly direction along a line parallel to and ¼ nautical mile from shore to its intersection with a straight line extending from the southernmost point of Cuttyhunk Island to the westernmost point of Gay Head on Martha's Vineyard; thence in a northwesterly direction along this line to the shore at Cuttyhunk Island; thence to the starting point by following in an easterly direction the shoreline of the Elizabeth Islands connected by the following baselines: the shortest straight line between Cuttyhunk Island and Nashawena Island; the shortest straight line between the easternmost point of Nashawena and the southernmost point of Pasque Island; the shortest straight line between Pasque Island and Naushon Island; a straight line from Jobs Neck on the eastern side of Naushon Island to the southernmost point on Nonamesset Island; a straight line from Mink Point at the northernmost point of Nonamesset Island to Juniper Point at the western entrance of Little Harbor.

(12) Surf Clam Dredging Area Closures. It is unlawful to use surf clam dredges in areas and at times described in 322 CMR 6.08: *Surf Clam Fishery*.

(13) Presumption. It is a rebuttable presumption that a vessel is using its mobile gear if its otter trawls, beam trawls, midwater or bottom pair trawls, seines, or dredges are not out of the water and on board the vessel, or the mouth of the net or dredge is not out of the water and secured to the vessel's sides or stern.

3.03: Taking of Anadromous Fish, Except Alewives and River Herring, in the Territorial Waters of Massachusetts

(1) The taking of anadromous fish, except alewives or river herring, in the territorial waters of Massachusetts by snagging, snatching or hooking is prohibited. For the purpose of 322 CMR 3.00, snagging, snatching or hooking are defined as taking fish, not attracted by bait or artificial lure, with hooks, gangs or lures, whether baited or unbaited, in a manner so as to pierce and hook a fish in any part of the body other than the mouth.

(2) Violation of 322 CMR 3.00 shall be punished by a fine of not less than \$10.00 nor more than \$1,000.00 and may result in other penalties as provided by law.

3.04: Marking of Lobster Equipment

Rules and Regulations adopted under the provisions of M.G.L. c. 30A and St. 1969 c. 737, which is an act providing for better identification and marking of lobster buoys, pots, traps, cars and boats.

(1) All lobster buoys, pots, traps and cars described in M.G.L. c. 130, § 38, shall be marked with the permit number assigned by the Director. Non-commercial lobstermen shall also add the letter "N" prior to the four-digit permit number, and a dash (-) with a single digit from 0 through 9 shall follow the four-digit permit number, indicating the sequential pot number in the series, up to ten pots. The permit numbers shall not be less than ½ inch in height nor less than ⅛ inch in thickness or width of line. Said numbers shall be burned or cut into a wooden lath or a plate made of durable synthetic material, which shall be permanently secured to the inside of the trap. For purposes of 322 CMR 3.00 all lobster traps fished by commercial fishermen permitted in accordance with 322 CMR 7.01: *Form, Use and Contents of Permits*(2) may be marked solely with trap tags in accordance with 322 CMR 6.31: *Trap Tags* to meet marking requirements.

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(2) Both the air tank(s) of a diver and the floating marker described in M.G.L. c. 130, § 38A, as amended, shall be marked so as to display the permit number assigned by the Director to said diver. The permit numbers shall be not less than one inch in height nor less than $\frac{1}{8}$ inch in thickness or width of line until December 31, 1971. As of January 1, 1972 the size of said numbers shall be not less than three inches in height nor less than $\frac{1}{2}$ inch in thickness or width of line.

REGULATORY AUTHORITY

322 CMR 3.00: M.G.L. c. 130, §§, 17A, 38, 38A, 94 through 97, and 104.

NON-TEXT PAGE