

322 CMR 4.00: FISHING AND SHELLFISH EQUIPMENT

Section

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4.01: Use of Purse Seines in Cape Cod Bay

Rules and Regulations Governing the Use of Purse Seines in Cape Cod Bay, adopted under provisions of M.G.L. c. 30A and M.G.L. c. 130, §§ 2, 17A and 104.

(1) General.

- (a) No person shall fish with nets or seines, commonly known as purse seines, in Cape Cod Bay inside of a line drawn from Sesuit Harbor in Dennis, northerly to #1 buoy on Billingsgate Shoal, thence northeasterly to Jeremy Point, so-called, in Wellfleet unless he is the holder of a Special Permit for a Regulated Fishery which may be issued by the Division.
- (b) All persons fishing within the regulated area shall, inasmuch as possible, monitor channel 2638 on the marine radio or channel 23 CB for information pertaining to sport fishing activity in the area and shall avoid fishing in the immediate areas where sports fishermen are concentrated.
- (c) The Director or his agents shall have the right to board and inspect any vessels engaged in the regulated fishery and to immediately suspend fishing operations, if in his judgement, such action is warranted to protect any fishery.

(2) Restricted Area. In addition to 322 CMR 4.01(1) governing seining in the said portion of Cape Cod Bay, seining inside of a line drawn from Rock Harbor, Orleans, northwesterly to the #2 flashing red/bell buoy, thence northerly to Jeremy Point, so-called, in Wellfleet shall be subject to the following specific regulations:

- (a) Permittees shall obtain special authorization from the Director to seine within the restricted area.
- (b) Permittees wishing to seine in the restricted area shall post a bond in the amount of \$1,500 to cover any costs incurred by local or state government for picking up and disposing of any fish that may be spilled by the permittee.
- (c) Seining shall be prohibited in the restricted area prior to June 7th of each year.
- (d) Not more than two vessels may seine in the restricted area at any one time.
- (e) Applications for special authorization to seine in the restricted area must be received at the office of the Director by June 1st, of each year. In the event that there are more than two applicants for special authorization, the Director shall have the right to set up a drawing by chance to determine the allocation of special authorizations.

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(f) Permittees shall notify the Division (at 617-727-3189) and the Harbor Master of the Town of Wellfleet on each day that they intend to conduct seining operations in the restricted area.

(g) All carrier boats must "stand by" or "lay off" outside of the #10 buoy in the Wellfleet Harbor channel and shall not operate inside of said buoy except for direct ingress or egress from the harbor or to immediately take on or land the catch from the permitted seining operation.

(3) Closed Area. Seining is prohibited at all times in Wellfleet Harbor north of latitude 41° 55'.

4.02: Use of Nets in Inshore Restricted Waters

(1) Purpose. The purpose of 322 CMR 4.02 is to manage net fishing participation in the nearshore harbors, bays, estuaries, tidal creek, river, and salt ponds inshore waters of the Commonwealth on a year-round basis with a particular focus on winter flounder and the spawning season. In addition, it is designed to reduce conflicts between different fisheries and users and to identify and regulate all inshore net fisheries for purposes of resource conservation and management.

(2) Inshore Restricted Waters. 322 CMR 4.02 contains a listing of the defined inshore waters and the description of the outer boundaries as delineated by specific structures such as jetties, points, and other landmarks.

(a) Boston and North

1. Merrimack River. Waters inside a line drawn between easternmost tips of north and south jetties.
2. Plum Island Sound. Waters inside a line drawn from the dome on Castle Hill, Ipswich to the southernmost tip of Plum Island -- Approx. 5° True.
3. Essex Bay. Waters inside northwesternmost point of Wingaersheek Beach to the southeasternmost point of Castle Neck -- Approx. 72° True.
4. Annisquam River, Gloucester. Waters inside line from northern tip of Farm Point to the Annisquam River Horn on Wigwam Point -- Approx. 53° True.
5. Rockport Harbor. Waters inside line drawn from the spit on the southern shore of the Harbor to the flasher on the easternmost tip of the north breakwater -- Approx. 354° True.
6. Gloucester Harbor. Waters inside line drawn from Eastern Point Flashing beacon to Mussel Point -- Approx. 350° True.
7. Manchester Harbor. Waters inside line drawn from westernmost tip of Proctor Point to Tucks Point -- Approx. 350° True.
8. Beverly Harbor. Waters inside line drawn eastern most tip of Yacht Club Pier to southernmost tip of Woodbury Point -- Approx. 29° True.
9. Salem Harbor. Waters inside line drawn from Ft. Pickering Light to northernmost tip of Naugus Head, Marblehead -- Approx. 148° True.
10. Marblehead Harbor. Waters inside line drawn from flashing green beacon on northernmost tip of Marblehead Neck to the flag tower at Ft. Seawall -- Approx. 302° True.
11. Lynn Harbor. Waters inside line drawn from easternmost tip of Point of Pines to the Cupola on Little Nahant -- Approx. 108° True.
12. Boston Harbor. All waters inside lines drawn from the tower on Telegraph Hill in the town of Hull to the southernmost point of Lovell Island thence from the northernmost point of Lovell Island to the southeasternmost tip of Deer Island.

(b) Cape Cod Canal to Boston

1. Little Harbor, Cohasset. All waters west and south of Atlantic Avenue.
2. Cohasset Harbor. All waters inside line drawn from northernmost point of Strawberry Point to easternmost point of Quarry Point -- Approx. 268° True.
3. Scituate Harbor. Waters inside line drawn from northernmost point of First Cliff to the flashing red beacon on the eastern tip of the breakwater on Cedar Point -- Approx. 43° True.
4. North River/South River. Waters inside line drawn from northernmost point of Fourth Cliff to the southernmost point of Third Cliff -- Approx. 322° True.
5. Green Harbor, Marshfield. Waters inside line drawn between the southernmost tips of the entrance jetties.

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6. Plymouth, Kingston, Duxbury Harbors. All waters inside line drawn from the southwestern point of Saquish Head to the northernmost point of Plymouth Beach -- Approx 218° True.
- (c) Cape Cod.
1. Sandwich Harbor. Waters inside line drawn between northernmost tips of entrance jetties.

4.02: continued

2. Scorton Harbor, Sandwich -- Waters inside line drawn between northernmost tips of entrance jetties.
3. Barnstable Harbor -- Waters inside line drawn from the easternmost tip of Beach Point to the western tip of the eastern shore of Bass Hole -- Approx. 84° True.
4. Sesuit Harbor, Dennis -- Waters inside line drawn between northernmost tips of entrance jetties.
5. Wellfleet Harbor -- Waters inside line drawn from the southernmost tip of Jeremy Point due east (90° True) to the shore of Sunken Meadow, Eastham.
6. Pamet Harbor, Truro -- Waters inside a line drawn between the westernmost tips of the entrance jetties.
7. Provincetown Harbor -- Waters inside a line drawn from the northernmost tip of Long Point 13° True to the tank west of Mayflower Heights.
8. Nauset Harbor -- Waters inside a line drawn from the northernmost point of Nauset Heights to the southeasternmost part of Nauset Beach, Orleans -- Approx. 329° True.
9. Pleasant Bay -- Waters inside line drawn from the southwesternmost point of Nauset Beach, Chatham to the southernmost point of Morris Island -- Approx. 334° True.
10. Stage Harbor, Chatham -- Waters inside line drawn from westernmost point of Harding Beach Point to the southernmost point of Stage Harbor -- Approx. 268° True.
11. Taylors Pond, Chatham -- All waters including Cockle Cove and Bucks Creek.
12. Saquatucket Harbor, Harwich -- Waters inside line drawn southernmost tips of entrance breakwaters.
13. Wychmere Harbor, Harwich -- Same as Saquatucket Harbor.
14. Allen Harbor, Harwich -- Same as Saquatucket Harbor.
15. Herring River, Harwich -- Waters inside line drawn between southernmost tips of entrance breakwaters.
16. Swan Pond River and Swan Pond, Dennis -- All waters.
17. Bass River, Yarmouth-Dennis -- All waters inside line drawn between southernmost tips of entrance jetties.
18. Parker River, Yarmouth -- All waters inside entrance.
19. Hyannis Harbor-Lewis Bay -- Waters inside line drawn from Point Gammon to the flashing green beacon on the Hyannisport breakwater -- Approx. 307° True.
20. Hall Creek-Hyannisport -- All waters inside entrance.
21. East Bay, Barnstable -- Waters within line drawn from the southernmost tip of Long Beach to the southernmost tip of the south breakwater.
22. West Bay, Barnstable -- Waters inside line drawn between southernmost tips of entrance breakwaters.
23. Cotuit Bay-North Bay, Barnstable -- Waters inside line drawn from northwesternmost point of Oyster Harbors Beach (Sampsons Island) to Bluff Point -- Approx. 212° True.
24. Popponesset Bay, Mashpee-Barnstable -- Waters inside line drawn from northernmost point of Thatch Island to Meadow Point -- Approx. 289° True
25. Waquoit Bay, Mashpee-Falmouth -- Waters inside line drawn between southernmost tips of entrance jetties.
26. Eel Pond, Falmouth -- Waters inside line drawn between southernmost tips of entrance jetties.
27. Bournes Pond, Falmouth -- All water inside entrance.
28. Green Pond, Falmouth -- Waters inside line drawn between southernmost tips of entrance jetties.
29. Little Pond, Falmouth -- All waters inside entrance.

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30. Falmouth Inner Harbor -- Waters inside of line drawn between tips of entrance breakwaters.
31. Salt Pond, Falmouth -- Waters inside entrance.
32. Oyster Pond, Falmouth -- Waters inside entrance.
33. Little Harbor, Falmouth -- Waters inside line drawn from Juniper Point to Nobska Point Light -- Approx. 100° True.
34. Great Harbor, Woods Hole -- Waters inside line drawn from Juniper Point to Penzance Point -- Approx. 287° True.

4.02: continued

(d) The Islands.

1. Nantucket Harbor. Waters inside a line drawn between the outermost tips of the entrance jetties.
2. Madaket Harbor, Nantucket. Inside a line drawn from Eel Point -- Approx. 196° True -- to the southwesternmost tip of Madaket.
3. Vineyard Haven Harbor. Waters inside a straight line drawn from the northern tip of the breakwater north of Lagoon Pond Bridge to the northern tip of the Vineyard Haven Breakwater and thence to the west shore of Vineyard Haven Harbor (includes Lagoon Pond).
4. Oak Bluffs. Waters inside line drawn between outermost tips of breakwaters.
5. Hart Haven Harbor-Farm Pond, Oak Bluffs. All waters inside entrance jetties.
6. Sengekontackett Pond, Oak Bluffs-Edgartown. All waters west of Beach Road (includes Trapps Pond).
7. Edgartown Inner Harbor-Katama Bay. Waters inside area bounded as follows - Edgartown Light to Chappaquiddick Point and Norton Point to southwesternmost part of Chappaquiddick Island.
8. Cape Poge Bay, Edgartown. All waters inside line drawn south 180° True from the north side of Cape Poge Gut.
9. Edgartown Great Pond. All waters inside entrance.
10. Tisbury Great Pond. All waters inside entrance.
11. Menemsha Pond. Waters inside line drawn between outermost tips of entrance jetties.
12. James Pond, West Tisbury. All waters inside entrance.
13. Lake Tashmoo, Tisbury. All waters inside line drawn between outermost tips of entrance jetties.

(e) Buzzards Bay to Mount Hope Bay, and Cuttyhunk Pond.

1. Buzzards Bay. All waters inside Buzzards Bay north and east of a line drawn from the southernmost point of Gooseberry Neck to Cuttyhunk Light.
2. Westport River. Waters inside a line drawn from Westport Light to the westernmost tip of Horseneck Point - Approx. 331° True.
3. Richmond Pond, Westport. All waters inside entrance.
4. Mount Hope Bay. All waters north of the Massachusetts/Rhode Island boundary line including Mount Hope Bay, Cole's River, Lee's River, and Taunton River,
5. Cuttyhunk Pond. All waters inside entrance.

(f) Narragansett Bay Tributaries.

1. Runnins River. All waters within the river.
2. Palmer River. All waters above the Massachusetts/Rhode Island boundary.

(3) Inshore Restricted Waters Regulated Fishery Permit. Except as otherwise provided by 322 CMR 4.02(5), any person who intends to use any net to catch and take fish inside those waters set forth in 322 CMR 4.02(2) or inside any other estuary, embayment, salt pond, tidal creek, river or other similar body of inshore waters shall possess a special regulated fishery permit issued by the Director pursuant to 322 CMR 7.01.

(4) Permit Eligibility. The Director may limit the number of permits issued each year. In determining eligibility to receive special regulated fishery permits, the Director may take into consideration the following criteria:

- (a) the extent of traditional participation in the inshore net fishery;
- (b) the degree of economic dependence on the inshore net fishery; and

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- (c) the extent that the nets to be used are compatible with existing fisheries in the area; as well as with the physical environment of the areas to be fished, as evaluated by the Director and;
- (d) the abundance of target species in the area(s) to be fished and/or the overall stock condition of the resource as determined by the Director.

(5) Exception.

- (a) Cast Net. A person may, without a special permit, use a cast net for purposes of taking bait.

4.02: continued

(b) Small Bait Net. A person may, without a special permit, use a small net of no more than 250 square feet inside those inshore waters listed in 322 CMR 4.02(2) or inside any estuary, embayment, salt pond, tidal creek, river or other similar body of inshore water for the sole purpose of obtaining bait fish for personal use provided all other requirements of law are met.

(6) Conditions. The Director may establish any conditions to the special permit that are necessary for purposes of conservation of the resource or management of the fishery.

(7) Prohibitions. Except as otherwise provided by 322 CMR 4.02(5), it is unlawful to set or use any net inside any inshore water set forth in 322 CMR 4.02(2) or any estuary, embayment, salt pond, tidal creek, river or other similar body of inshore water:

(a) to take winter flounder between February 1st and May 31st of any year; or

(b) without a special permit issued from the Director or contrary to the terms or conditions of the special permit.

4.04: Fish Weir Buffer Zone

(1) Purpose. Unlike mobile fishing gear that is used in active pursuit of fish or fixed gear such as fish pots or gillnets that can be moved to follow migrating fish, weirs, authorized by M.G.L. c. 130, § 29 and set in coastal waters with permission of appropriate cities or towns, are completely stationary and dependent on fish coming to them. Since fish tend to follow the weir's leader to the head (heart and bowl), they become concentrated and attract other fishermen to the weir where fish are available and more easily caught. This use of the weir's fish-attracting traits by other fishermen; for example, by fishing in the bowl or heart or alongside the leader, can interfere with the weir's operation and/or success and cause conflicts on the water between weir and other fishermen. Consequently, to avoid these conflicts, a reasonable buffer zone within which no person may conduct commercial or recreational fishing, except the weir owner or those with the owner's consent to remove fish and squid from the head(s), has been established.

(2) Definitions.

Buffer zone means the area around the fish weir which is circumscribed by buoys attached to weir pole anchors. The zone's boundary around the bowl is defined by imaginary straight lines between the buoys. The zone's extension from the bowl towards shore and parallel to the leader is defined by imaginary straight lines between the buoys on either side of the bowl to buoys attached to leader pole anchors. The shoreward end of the zone is defined by an imaginary straight line between the leader pole anchor buoys 500 feet from the first leader pole at the entrance to the weir's heart. When a weir has two heads, the zone extends the entire distance from the most seaward head to leader pole buoys 500 feet shoreward of the first leader pole at the entrance to the most shoreward head.

Commercial Fishing means fishing for purposes of sale, barter or exchange.

Fish Weir (also known as pound net or fish trap) means a stationary or fixed maze of nets attached to poles anchored to the sea bed and comprised of the leader (line of poles with net attached) extending from near-shore seaward to the heart which is adjacent to the bowl where fish and squid accumulate. A weir may have two heads each with a heart and bowl.

Fishing means to harvest, catch or take or attempt to harvest, catch or take any fish or squid.

Recreational Fishing means fishing for purposes of personal or family use by angling or hook and line.

(3) Marking

(a) Weirs with one head shall have anchors marked on the surface by buoys tied to the end of anchor lines of the most seaward pole of the bowl and of the poles on both sides of the bowl. The shoreward extension of the zone along and parallel to the leader shall be marked

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on the surface by buoys tied to the anchor at the end of anchor lines on both sides of the leader 500 feet from the leader pole at the entrance to the heart.

(b) Weirs with two heads shall have anchors marked on the surface by buoys tied to the end of the anchor line of the most seaward pole of the most seaward bowl and tied to the ends of anchor lines of the poles on both sides of the two heads' bowls. The shoreward extension of the zone along and parallel to the leader shall be marked on the surface by buoys tied to the anchor at the end of anchor lines on both sides of the leader 500 feet from the leader pole at the entrance to the most shoreward head's heart.

(c) All buoys shall be 12 inches diameter, orange, inflated balls marked with the weir number assigned by DMF. A weir with one head shall be marked with five buoys. A weir with two heads shall be marked with seven buoys.

NON-TEXT PAGE

4.04: continued

(4) Prohibition. It is prohibited for any person to conduct commercial or recreational fishing within the buffer zone except the weir owner and those with the owner's consent to remove fish and squid from the bowl(s).

(5) Maximum Buffer Zone Width.

(a) The maximum distance between the anchor line buoys and the weir poles of the bowl shall be 150 feet.

(b) The maximum distance between the anchor line buoys and the weir poles of the leader shall be 200 feet.

4.05: Further Regulation of Fishing Gear (Reserved)

4.06: Use of Mobile Gear

(1) Definitions. For purposes of 322 CMR 4.06 only the following words shall have the following meanings:

Director means the Director of the Division of Marine Fisheries, 100 Cambridge Street, Boston, MA.

Ghost Gear means any fixed fishing gear including but not limited to gillnets with their flyers and floats and lobster pots with their buoys and line, which are no longer buoyed to the surface of the water, are not visible from the surface and become entangled with mobile gear.

Hauling Back means retrieving a net from the ocean bottom and placing the contents of the cod end on the deck or hold of the vessel.

4.06: continued

Mobile Gear means any moveable or encircling fishing gear or nets which are towed, hauled or dragged through the water for the harvest of fish including but not limited to pair trawls, otter trawls, beam trawls, mid-water trawls, scottish seines, danish seines, pair seines, purse seines or shellfish dredges.

Molted Lobster means any newly molted lobster whose carapace has not hardened and may be dented by exerting lateral pressure with the fingertips.

Night Fishing means conducting fishing operations with mobile gear by a vessel between ½ hour after sunset to ½ hour before sunrise.

Vessel means any commercial fishing vessel registered under the laws of the state and conducting commercial fishing operations within waters under the jurisdiction of the Commonwealth.

(2) Gear Retrieval. Any vessel with mobile gear whose gear becomes entangled with ghost gear may haul said ghost gear on board for the purpose of identification and return to the rightful owner, if authorized in writing by said owner.

(3) Closures. The Director may close those waters under the jurisdiction of the Commonwealth determined by him to be either:

- (a) susceptible to gear conflicts at night due to high densities of fixed fishing gear; or
- (b) in need of special and immediate conservation measures based upon high densities of molted lobsters.

(4) Procedure. A closure shall not be effective until:

- (a) it has been approved by a majority of the members of the Marine Fisheries Advisory Commission;
- (b) a notice of closure has been filed with the Massachusetts Register stating:
 - 1. a determination of need and the basis for the closure;
 - 2. the exact area to be closed; and
 - 3. the duration during which the closure shall remain in effect; and
- (c) the notice of closure has been posted in conspicuous places accessible to the fishermen.

(5) Comment Period. During the effective date of any closure the Director shall consider any written comments on the closure which may be submitted to the Director by the public or a state or federal agency. Based upon these written comments the Director may alter, amend or rescind the closure pursuant to the procedural requirements of 322 CMR 4.06(5).

(6) Prohibitions. It shall be unlawful:

- (a) for any vessel fishing with mobile gear or hauling back in waters under the jurisdiction of the Commonwealth to exceed the lobster landing/possession limits established in 322 CMR 6.26: *Bycatch Lobster Landing/Possession Limits*;
- (b) for any vessel or its occupants to molest, damage, destroy, cut or deface any fixed and stable fishing gear;
- (c) for any vessel or its occupants to possess any ghost gear without proper written authorization of the owner; or
- (d) to use in any manner any mobile fishing gear in or possess any fish including lobsters harvested from an area which has been closed pursuant to 322 CMR 4.06(5).

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- (7) Penalties. Violations of any provision of 322 CMR 4.06 may result in:
- (a) forfeiture of all fish and lobsters unlawfully possessed;
 - (b) forfeiture of all vessels and gear unlawfully used;
 - (c) suspension of the commercial fisherman permit;
 - (d) a fine of not less than \$50 nor more than \$1,000; or
 - (e) any combination of the above.

(4.08: Fishing and Shellfish Equipment (Reserved))

4.09: Use of Gillnets South and West of Cape Cod

- (1) Definition. For the purposes of 322 CMR 4.09 gillnets are defined as anchored or drifting vertical walls of webbing, buoyed on top and weighted at the bottom, designed to capture fish by entanglement, gilling, or wedging.
- (2) Prohibition. It is unlawful to use, set, maintain, or fish with any gillnets during the period of April 1st through November 15th in waters under the jurisdiction of the Commonwealth in Mount Hope Bay and circumscribed by an imaginary line beginning at the intersection of the Loran C line 9960-Y-43940 with the Chatham shoreline; thence seaward following the Loran C line 9960-Y-43940 to the territorial seas line; thence in a southerly direction following the territorial seas line to its intersection with a point at 70° 00'; thence in a southerly direction following the 70° 00' line to its intersection with the territorial seas line; thence following the territorial seas line in a southerly direction and south of Nantucket Island and Martha's Vineyard to the Massachusetts/Rhode Island boundary; thence in a northerly direction following the Massachusetts/Rhode Island boundary to the shoreline; thence following the shoreline in an easterly direction to the starting point.
- (3) Exception. 322 CMR 4.09 shall not apply to persons:
 - (a) without a surface gillnet permit using surface gillnets less than 250 square feet to take bait for personal use in the Inshore Restricted Waters as defined in 322 CMR 4.02;
 - (b) permitted to fish surface gillnets in accordance with 322 CMR 4.14 and fishing in the Inshore Restricted Waters as defined in 322 CMR 4.02;
 - (c) permitted to take bluefish in accordance with 322 CMR 4.05.

4.10: Use of Sea Scallop Dredges

- (1) Definitions.
 - (a) Effective Fishing Width. The distance measured between the extreme outside edges of the mouth of a dredge or dredges.
 - (b) Twine Top. Net material or other material on top of a scallop dredge.
- (2) Dredge Width. It is unlawful to possess a sea scallop dredge or a combination of dredges with an Effective Fishing Width greater than ten feet while fishing in the waters under the jurisdiction of the Commonwealth.
- (3) Dredge Rings.
 - (a) Minimum Ring Size. It is unlawful to possess a sea scallop dredge with rings less than four inches.
 - (b) Ring Size Measurement. The minimum ring size authorized for use on a sea scallop dredge shall be determined by measuring the length of the shortest straight line passing through the center of the ring from one inside edge to the opposite inside edge of the ring. The measurement shall not include normal welds from ring manufacturing or links. The rings to be measured will be at least five rings away from the mouth of the dredge and at least two rings away from other rigid portions of the dredge.
- (4) Twine Top.
 - (a) Minimum Net Mesh Size. It is unlawful to possess a Twine Top with a net mesh of less than ten inches square or diamond;
 - (b) Twine Top Configuration. It shall be unlawful to configure or construct a Twine Top in any manner that it obstructs the net mesh so that it is less than ten inches square or

diamond.

4.11: Use of Gillnets in Massachusetts Bay

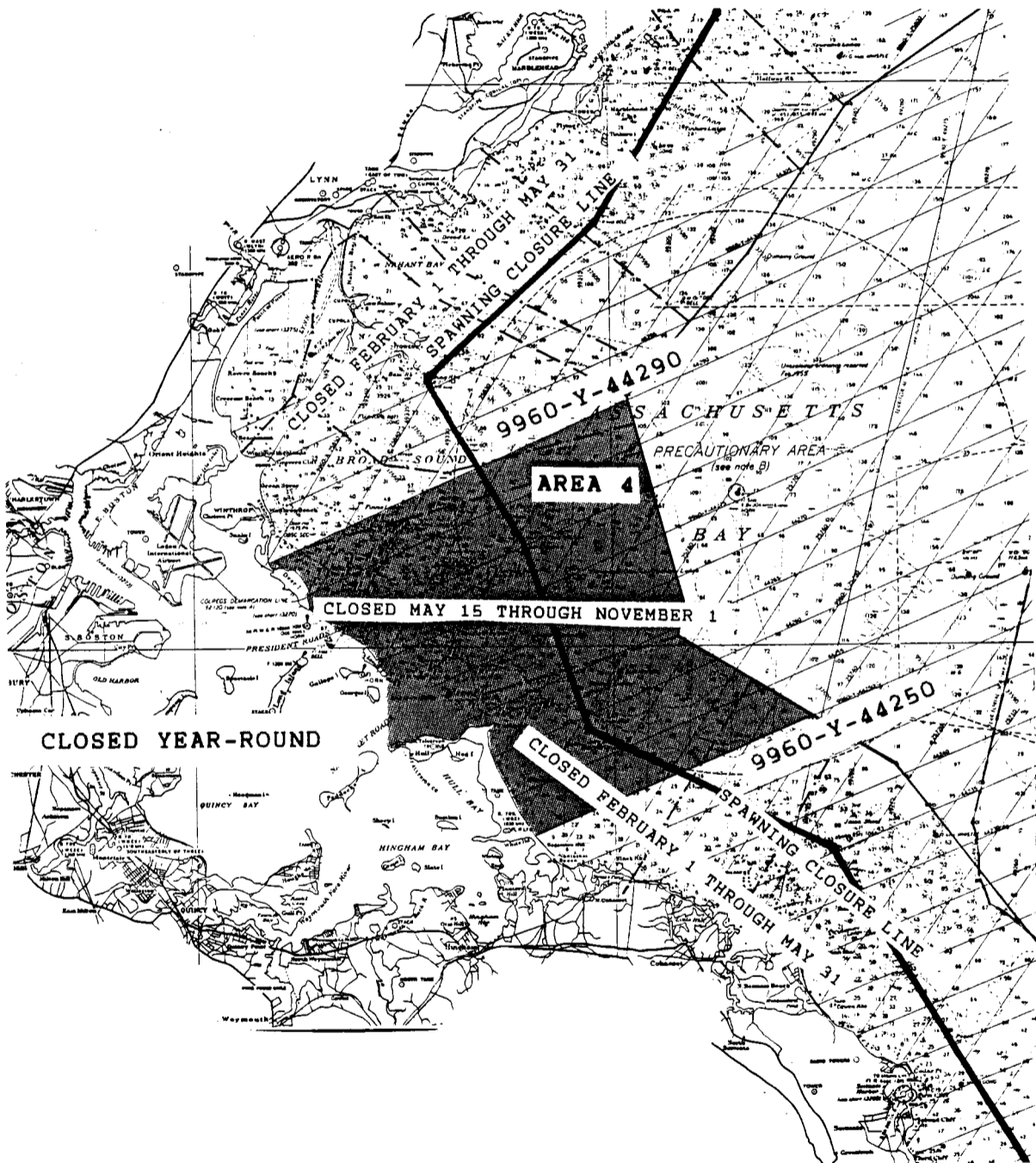
(1) Definition. For the purpose of 322 CMR 4.11 a bottom gillnet is defined as vertical walls of webbing, whether anchored or drifting, which is buoyed on the top and weighted on the bottom to remain in an upright position, designed to capture fish on or near the seabed by entanglement, gilling or wedging.

(2) Prohibition. It is unlawful to use, set, place or maintain any bottom gillnet from May 15th to November 1st within the management area set forth in 322 CMR 4.11(3).

4.11: continued

(3) Management Area. Beginning at the intersection of the Loran C 9960-Y-44250 line with the shoreline of the town of Hull; thence following the 44250 line to the so-called otter and beam trawl line otherwise known as the old exterior line of the Commonwealth; thence following said line in a northerly direction to the intersection with the Loran C 9960-Y-44290 line; thence following the 44290 line in a westerly direction to the shoreline north of Deer Island; thence along the shoreline of Deer Island in a southerly direction to the southeasternmost tip of Deer Island; thence along an imaginary straight line to the northernmost point of Lovell Island; thence along the shore of Lovell Island to its southernmost point; thence along an imaginary straight line to the tower on Telegraph Hill in the town of Hull; thence along the shore eastward to Pt. Allerton and southward along Nantasket Beach to the intersection of the shore with the Loran C 44250 line at the point of beginning, all as appearing on the following chart.

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4.11: continued

(4) Exception. 322 CMR 4.11 shall not apply to inshore net areas set forth in 322 CMR 4.02 or to persons permitted to take bluefish in accordance with 322 CMR 4.05.

4.12: Use of Nets for Taking Striped Bass (*Morone saxatilis*) or Shad (*Alosa sapidissima*)

(1) It is unlawful to offload onto any vessel within waters under the jurisdiction of Massachusetts or to offload or land onto any pier, wharf or other structure within Massachusetts any striped bass or shad which was harvested, caught or taken by any net.

(2) It is unlawful for any vessel registered under the laws of the state as that term is defined in M.G.L. c. 130, § 1 to harvest, catch or take any striped bass or shad by any net in any waters under the jurisdiction of Massachusetts or in those waters within the United States 200 miles exclusive economic zone bounded in such a way that the inner boundary is a line coterminous with the seaward boundary of each coastal state and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, as depicted on nautical charts of the National Oceanic and Atmospheric Administration.

(3) It is unlawful for any person, firm, corporation, restaurant, supermarket or other retail or wholesale distributor or fish or fish products to possess any striped bass or shad harvested, caught, or taken by nets except striped bass or shad lawfully harvested, caught, taken or possessed in jurisdictions other than Massachusetts.

4.13: Fixed Gear Marking and Maximum Length Requirements

(1) Purpose. A vast amount of fixed gear is being fished in and outside of Massachusetts waters on fishing grounds which must be shared by fishermen using many different gear types. These fixed gear marking requirements will assist fishermen to see and avoid each other's gear thereby reducing conflicts between fixed and mobile gear fishermen fishing in waters under the jurisdiction of the Commonwealth. Fixed gear marking requirements also help identify entangled or abandoned gear. Maximum length requirements also will help fishermen identify the ends of fixed gear and will facilitate co-existence of fishermen on the same fishing grounds. The gillnet length requirement only pertains to gillnets set in waters under the jurisdiction of the Commonwealth.

(2) Definitions.

East End means that part of the gillnet or pot trawl extending from 01 through 180° magnetic.

Pot Trawls means lobster pot trawls, fish pot trawls, and conch pot trawls and refers to single pots tied together in a series and buoyed at both ends.

Single Pots means individual lobster pots, fish pots, and conch pots.

Twin Orange Markers means a pair of identical orange flag-like strips of material that are clearly visible and attached to the buoy stick or high flyer.

West End means that part of a gillnet or pot trawl extending from 181 through 00° magnetic.

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(3) Fixed Gear Marking Requirements. The following minimum requirements apply to the marking of fixed gear within waters under the jurisdiction of the Commonwealth.

(a) Gillnets.

1. the east end of a gillnet shall be marked with a high flyer and standard 12-inch tetrahedral corner radar reflector; the west end shall be marked with a high flyer with flag and a standard 12-inch tetrahedral corner radar reflector;
2. the buoy line shall be marked with a four inch green mark midway on the buoy line.
3. all buoys shall be permanently and visibly marked or branded with the permit number of the owner.
4. Exception. Regarding 322 CMR 4.13(3)(a)2., if the color of the rope is the same as or similar to a color code, a white mark may be substituted for that color code.

4.13: continued

(b) Pot Trawls and Single Pots.

1. the east end of a pot trawl shall be marked with a double buoy, consisting of any combination of two seven inches x seven inches or five inches x 11 inches buoys and one or more three foot sticks. The west end of a pot trawl shall be marked with a single seven inches x seven inches or five inches x 11 inches buoy with a three foot stick and a flag. Single pots shall each be marked with a single seven inches x seven inches or five inches x 11 inches buoy. Sticks are optional, but if used, shall not have a flag attached.
2. all buoys shall be permanently and visibly marked or branded with the permit number of the owner;
3. fished or authorized to fish in LCMA 1, LCMA 2 or the Outer Cape Cod LCMA as defined in 322 CMR 6.33: *Lobster Management Areas*, the buoy line shall be marked with a four inch red mark midway on the buoy line;
4. fished or authorized to fish in LCMA 3 as defined in 322 CMR 6.33: *Lobster Management Areas*, the buoy line shall be marked with a four inch black mark midway on the buoy line;
5. fished or authorized to fish in the Gulf of Maine, Outer Cape Cod and Southern New England Recreational Lobster Area as defined in 322 CMR 6.33: *Lobster Management Areas*, the buoy line shall be marked with a four inch red mark midway on the buoy line beginning January 1, 2010.
6. Exception, regarding 322 CMR 4.13(3)(b)3., 4. and 5., if the color of the rope is the same as or similar to a color code, a white mark may be substituted for that color code.

(c) Trawl Marking Exemptions. Within the prescribed areas listed in 322 CMR 4.13(3)(c) it shall be lawful to fish with trawls marked on one end with a plastic bottle attached by at least ten feet of ½ inch cotton line or similar light material, provided that said substitute buoy shall be painted with the buoy colors and permit number of the owner. A standard buoy as specified in 322 CMR 4.13(3)(b) shall be attached to the other end of the trawl, except that sticks need not be used. Single pots shall be marked with a standard buoy attached by light line in channel areas.

Boston Harbor and its Approaches. In waters under the jurisdiction of the Commonwealth and circumscribed by an imaginary line beginning at Point Allerton in Hull; thence in an easterly direction to the #1 buoy at Thieves Ledge; thence in a northerly direction to the BG buoy; thence in a westerly direction to Grovers Cliff in Winthrop.

(d) Cape Cod Bay Critical Habitat Restrictions. Lobster pots set in Cape Cod Bay Critical Habitat as defined in 322 CMR 12.10: *Exceptions* during January through May 15th that are properly modified with those features required in 322 CMR 12.03: *Prohibition on Certain Gear or Lines in Waters under Jurisdiction of the Commonwealth* designed to reduce the risk of whale entanglement must be marked as follows:

1. Two-pot trawls or “doubles” shall be marked with a single buoy line. The buoy shall be rigged with a three-foot stick and twin orange markers visibly attached to the top of the buoy stick.
2. All bouys marking either ends of a trawl shall have twin orange markers visibly attached to the buoy stick in addition to the existing marking requirements in 322 CMR 4.13(3)(b).

These twin orange markers must be removed from all buoy sticks after May 15th and before June 1st and fishermen may not re-attach them until after November 30th of each year.

(e) Prohibition. It shall be unlawful to mark fixed gear as required in 322 CMR 4.13(3)(d) if the lobster pots are not properly rigged with those features required in 322 CMR 12.05: *Fixed Gear Seasonal Gear Restrictions* to reduce risk of whale entanglement.

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- (4) Gillnet Maximum Length: the total continuous length of gillnets shall not exceed 2,400 feet from end to end of an entire net set in waters under the jurisdiction of the Commonwealth.
- (5) Pot Trawl Maximum Length: The total length of pot trawls set in waters under the jurisdiction of the Commonwealth shall not exceed 2,500 feet from end to end.
- (6) All buoys used to mark all fixed gear shall be permanently and visibly marked with the permit number of the owner.

4.14: Surface Gillnet Restrictions

- (1) Tending Requirement. Fishermen setting or fishing surface gillnets shall remain within 200 feet of the net at all times.
- (2) Gear Specifications.
 - (a) Floatation. Surface gillnets must have a headrope sufficiently buoyant to float at the surface. If any portion of a gillnet when fished is exposed at the water's surface then the net shall be considered a surface gillnet.
 - (b) Marking. All buoys shall be marked with reflective tape. The holder's permit number shall be marked on all buoys and at least once every 50 feet on the headrope. Holders may burn or carve their number into floats attached to the headrope and shall measure at least ½ inch in height; alternatively if permit holders opt to mark the net with synthetic durable material, then the numbers shall be clearly visible and measure at least ¼" in height. The net ends shall be marked with bullet-shaped buoys with a size of nine x 16 inches and clearly marked with the letters SGN and the six-digit permit number of the holder.
- (3) Net Dimensions. It shall be unlawful to fish more than 300 linear feet of surface gillnets at any one time.
- (4) Mesh Size Openings. It shall be unlawful to fish with a surface gillnet with mesh openings larger than 3¾ inches or smaller than 1⅞ inches.
- (5) Area and Season Closures.
 - (a) In addition to area and season closures in 322 CMR 4.09(2) and 12.04(1), it is unlawful to fish surface gillnets year-round in Buzzards Bay.
 - (b) Southern New England Inshore Restricted Waters January 1st through May 15th Seasonal Closure. During January through May 15th it is unlawful to fish surface gillnets in any Inshore Restricted Waters as defined by 322 CMR 4.02 that are south and east of Cape Cod and the Islands including Vineyard Sound and Nantucket Sound. This area includes in the County Of Barnstable Pleasant Bay and Nauset Harbor, including all connecting embayments.
 - (c) Gulf of Maine Inshore Restricted Waters January 1st through May 31st Seasonal Closure. During January through May 31st it is unlawful to fish surface gillnets in any Inshore Restricted Waters as defined by 322 CMR 4.02 that are north of Cape Cod to the New Hampshire Border. This area also includes all estuaries and embayments that drain to Cape Cod Bay.
- (6) Retained Species. No other species except, menhaden, sea herring, or mackerel may be retained by fishermen using a surface gillnet.

4.15: Use of Cast Nets for Harvest of Bait

- (1) Definitions. For purposes of 322 CMR 4.15 the following words have the following meanings:
 - (a) Cast Net means any circular net weighted along the perimeter that is operated by one person throwing the net out over the water and designed to catch bait fish beneath the net as it as it falls through the water.
 - (b) Bait Fish means those species commonly used as bait and includes menhaden, sea herring, sand lance, and mackerel.

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- (2) Permit. A person may, without a special permit, use a cast net for purposes of taking bait.

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4.15: continued

- (3) Prohibitions. It shall be unlawful for:
- (a) any person to use a cast net for purposes of obtaining bait for sale without possessing a commercial permit.
 - (b) any person to use a cast net for purposes of obtaining bait for sale to other fishermen without possessing a bait dealer permit.

REGULATORY AUTHORITY

322 CMR 4.00: M.G.L. c. 130, §§ 2, 17A, 80 and 104; 16 U.S.C. 1856(a)(2).