



# The Commonwealth of Massachusetts

## Division of Marine Fisheries

251 Causeway Street, Suite 400, Boston, MA 02114

p: (617) 626-1520 | f: (617) 626-1509

[www.mass.gov/marinefisheries](http://www.mass.gov/marinefisheries)



CHARLES D. BAKER  
Governor

KARYN E. POLITO  
Lt. Governor

KATHLEEN A. THEOHARIDES  
Secretary

RONALD S. AMIDON  
Commissioner

DANIEL J. MCKIERNAN  
Director

### MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: April 9, 2021

SUBJECT: Proposal for New Buoy Line Marking Requirements for Commercial Lobster and Crab Trap Gear

#### Proposal

I intend to take to public hearing draft regulations to establish new buoy line marking requirements for commercial lobster and crab trap gear. These regulations will improve the agency's chances of achieving the approval of a federal Incidental Take Permit for its pot and trap fisheries because gear fished by Massachusetts fishermen will be definitively identifiable.

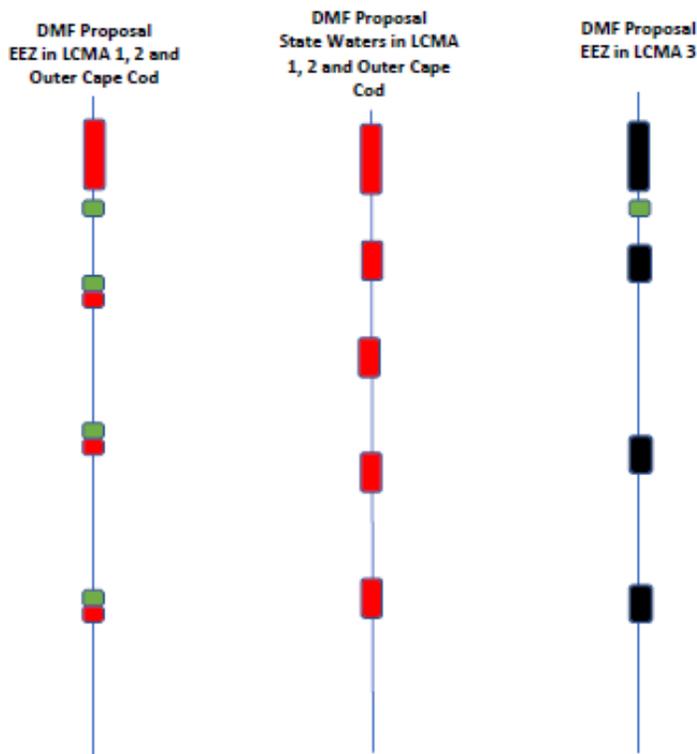
If approved, these buoy line marking requirements will go into effect of February 1, 2022. The specifics of the proposals are outlined in the enumerated bullets below and in Figure 1. The existing buoy line marking requirements for other commercial fixed gear fisheries and the recreational lobster fishery will remain unchanged. I anticipate that DMF will proceed to public hearing on this item in mid-to-late May and will present a final recommendation to the MFAC at the May or June business meeting.

1. MA Fishermen in EEZ in LCMA 1, 2 and Outer Cape Cod.
  - In the surface system, require two distinct solid marks (e.g., paint, tape). First, within 12' of the buoy have one solid red mark of at least 3' length. Then, within 1' below the 3' red mark, have an additional solid green mark at least 1' length.
  - Throughout the remainder of the buoy line, require at least three additional solid or non-solid (e.g., tracer) marks. One mark is to occur at the top, middle, and bottom third of the buoy line. Each mark shall be at least 2' in length and be comprised of 1' of red and 1' green.
  - If a fisherman is fishing with red rope or red and white striped ("candy cane") rope, then the red marks shall be white.
2. MA Fishermen in State Waters of LCMA 1, 2, and Outer Cape Cod.
  - In the surface system, require one solid red mark within 12' of the buoy that measures at least 3' length.
  - Throughout the remainder of the buoy line, require at least four additional solid or non-solid red marks. Each mark is to measure at least 2' length. Two marks are to

occur in the top 50% of the buoy line and two marks are to occur in the lower 50% of the buoy line. No segment of buoy line greater than 60' shall be unmarked.

- If a fisherman is fishing with red rope or “candy cane” rope then the red marks shall be white.
3. MA Fishermen in EEZ in LCMA 3.
- In the surface system, require two distinct solid marks. First, within 12’ of the buoy have one solid black mark of at least 3’ length. Then, within 1’ below the 3’ black mark, have an additional solid green mark at least 1’ length.
  - Throughout the remainder of the buoy line require at least three additional solid or non-solid (e.g., tracer) 1’ black marks. One mark is to occur at the top, middle, and bottom third of the buoy line.

**Figure 1. Image of DMF’s Proposed Gear Marking Proposal**



In addition to these measures, I intend to use these draft regulations to better define the term “buoy line.” During our initial outreach on the buoy line diameter and weak rope rules, we received feedback from certain fishermen who fish trawls regarding what constitutes the “buoy line.” Fishermen who fish trawls will typically fish with up to 12’ of heavier groundline at the front of the trawl. This groundline is then spliced into the vertical buoy line.

To continue to accommodate this practice, I am proposing to define the term buoy line as, “the line that extends through the water column from the buoy at the surface to a single trap on the ocean floor or to a groundline that connects multiple traps on a trap trawl

and extends no more than 12’ from the first trap on the trawl.”

**Rationale**

These new gear marking rules are being proposed in response to two ongoing challenges: federal rule making and ongoing Endangered Species Act litigation.

Federal Rule Making

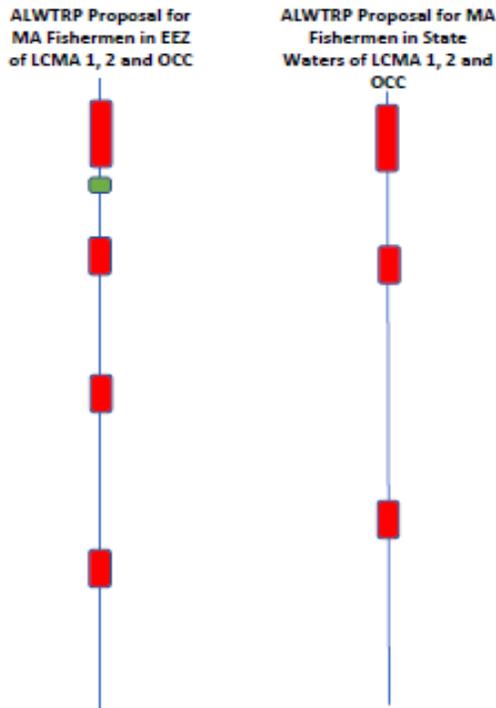
In December 2020, NOAA Fisheries released its draft regulations affecting the Atlantic Large Whale Take Reduction Plan (ALWTRP). This included new, more extensive buoy line marking requirements for the commercial lobster and crab trap fishery (Figure 2). As these rules are developed and promulgated under the Marine Mammal Protection Act (MMPA), they would apply to all commercial fishing activity in state waters and EEZ. DMF expects these rules will be

**Figure 2. NOAA’s Proposed Draft Gear Marking Regulations Under ALTWRP**  
**Table 4 from Federal Register Vol. 85 No. 251**

**TABLE 4—PROPOSED REGULATORY CHANGES TO GEAR MARKING ON NORTHEAST CRAB AND LOBSTER TRAP/POT BUOY LINES**

Area	Proposed gear marking measure
Entire Northeast Management Area (see figure 1) except Maine exemption area.	3-ft long state-specific mark (see color below) within 2 fathoms of the buoy. In Federal waters, an additional 6-inch green mark within 1 ft. of 3-ft mark.
Maine Exemption Area .....	3-ft long mark within 2 fathoms of the buoy. One or two additional 1-ft marks (depth dependent) through state regulation only.
Maine Non-Exempt .....	Purple. Three 1-ft marks: At top, middle and bottom of line. In Federal waters, an additional 6-inch green buoy line mark within 2 fathoms of buoy.
New Hampshire .....	Yellow. In state waters: Two 1-ft marks in the top half and bottom half of buoy line. Beyond state waters, three 1-ft marks: At top, middle and bottom of line. In Federal waters, an additional 6-inch green mark within 1 ft. of 3-ft mark within 2 fathoms of buoy.
Massachusetts .....	Red. In state waters: Two 1-ft marks in the top half and bottom half of buoy line. Beyond state waters three 1-ft marks: At top, middle and bottom of line. In Federal waters, an additional 6-inch green mark within 1 ft. of 3-ft mark within 2 fathoms of buoy.
Rhode Island .....	Silver/Gray. In state waters: Two 1-ft marks in the top half and bottom half of buoy line. Beyond state waters three 1-ft marks at top, middle and bottom of line. In Federal waters, an additional 6-inch green mark within 1 ft. of 3-ft mark within 2 fathoms of buoy.
LMA 3 .....	Retain Black. In Federal waters add a 3-ft long mark within 2 fathoms of the buoy, and an additional 6-inch green mark within 1 ft. of 3-ft mark within 2 fathoms of buoy.

**Figure 3. Draft ALWTRP Buoy Line Marking Rules for LCMA 1, 2 and OCC**



finalized in late May 2021. Once approved by the federal government, these rules will set the baseline regulations by which commercial fishermen must comply.

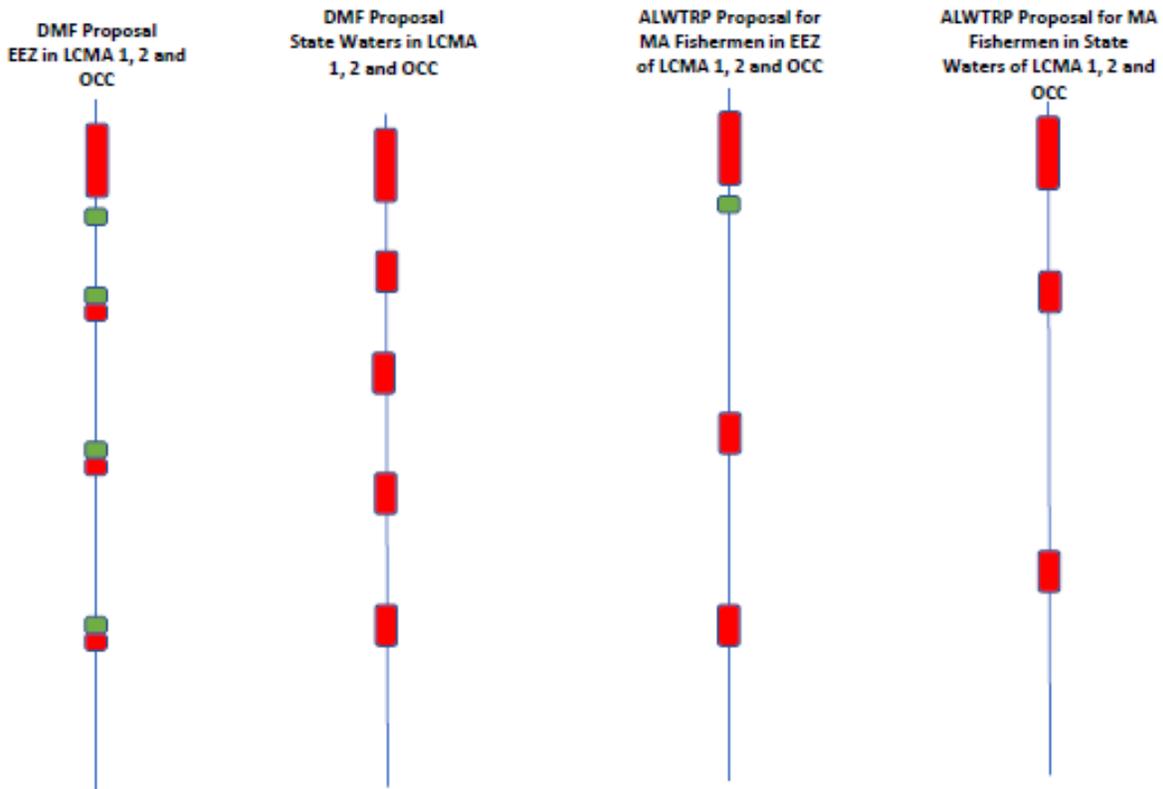
Buoy line marking rules establish a means for obtaining information regarding where entanglements of protected species are occurring. If a buoy line is marked with frequent, jurisdiction-specific markings, then it enhances the likelihood of attributing an entanglement to a specific fishery and region. This information will then inform risk management strategies and potentially allow for more surgical management approaches.

With this in mind, DMF has substantial concerns regarding NOAA’s proposed regulations for LCMA 1, 2, and Outer Cape Cod. Specifically, the proposed federal rules do not sufficiently differentiate gear set in the EEZ from gear set in state waters portions of these LCMA’s (Figure 3). Only a green mark in the surface system and an

additional red mark in body of the buoy line differentiate gear fished in the EEZ from state water. Frequently, when a buoy line is disentangled from a large whale (especially a right whale) the full buoy line is not intact and the surface system is missing. Accordingly, under the proposed federal rules, gear coming from the EEZ may be easily misidentified as coming from state waters. This poses a very real and significant risk to our state waters fishery and could jeopardize the state’s Incidental Take Permit (if approved).

In response to these concerns, and in consultation with NOAA Fisheries, DMF has proposed several modifications to how Massachusetts fishermen will be required to mark their gear (Figure 4). First, DMF is proposing to require a green mark to accompany all red marks in the body of buoy lines fished federal by Massachusetts fishermen in federal waters. This will distinguish gear in the EEZ from state waters gear. Second, on federal waters gear, the green and red marks in the body of the buoy must be at least 1’ each. This differentiates US gear from Canadian gear, which uses 6” markings. Lastly, DMF will require state waters gear be marked with greater frequency (four marks rather than two) and size of the marks (2’ rather than 1’). This helps make state waters gear more identifiable allowing to be more readily differentiated from federal waters gear. Increasing the mark size from 1’ to 2’ feet also addresses potential remnant marking from buoy lines fished on trawls in LCMA 1. Lastly, it helps distinguish our lobster fishery from those in other jurisdictions, which is a component of a successful ITP application.

**Figure 4. Comparison of Proposed ALWTRP and State Buoy Line Marking Rules for LCMA 1, 2 and OCC**



I strongly believe this is critical to reducing the potential for misattributing gear to the wrong jurisdiction. This is particularly important given the risk this would pose to the Massachusetts state waters lobster fishery. DMF has raised these concerns to NOAA Fisheries in public comment and in informal correspondence. At this time, DMF expects NOAA Fisheries will move forward similar final regulations when the final ALWTRP rules are implemented at the end of May 2021.

Regardless, of where the final ALWTRP rules end up on gear marking, DMF intends to move forward with its proposal unilaterally. If this is adopted unilaterally, DMF has crafted its proposal to allow the more conservative state rules to work cooperatively with the federal rules by having the requirements for gear in the EEZ to be in addition to and not in conflict with the federal proposal.

#### Incidental Take Permit Application

In April 2020, the US District Court ordered the Commonwealth to seek an Incidental Take Permit (ITP) pursuant to Section 10 of the Endangered Species Act to cover the licensing and regulating of its fixed gear fisheries, as these fisheries deploy vertical buoy lines that may cause entanglements of endangered right whales and sea turtles. This is a lengthy and ongoing process.

In the development of an ITP permit application, the applicant is required to establish a Habitat Conservation Plan (HCP). The HCP details the steps the applicant is taking to minimize and mitigate impacts the permitted activity is having on an endangered species. Currently the MA lobster fishery is classified as part of the Northeast/Mid-Atlantic American Lobster Pot/Trap Fishery on NOAA's List of Fisheries (LOF)<sup>1</sup>. This fishery includes the federal waters fishery, as well as all other state water lobster fisheries from New York to Maine. To be successful in our ITP application, DMF must first take steps to distinguish our lobster fishery as being different from the rest of the Northeast Lobster Fishery. This then allows our fishery to be classified as its own separate fishery on NOAA's LOF. Next, DMF must minimize or mitigate for all potential sources of risk to endangered species. For large whales this includes a National Environmental Protection Act ("NEPA") review and the requirement to receive a Negligible Impact Determination. Accordingly, DMF has recently adopted new regulations to allow the state to demonstrate that the state's lobster fishery is different and our management system as providing additional conservation when compared to the fishery in other jurisdictions. This proposal is consistent with this approach and is necessary to develop a successful ITP application.

To potentially obtain an ITP for right whales in 2022, DMF must have our lobster trap fishery listed separately from the Northeast/Mid-Atlantic American Lobster Pot/Trap Fishery on NOAA's 2022 LOF. Accordingly, Massachusetts must continue to approach right whale conservation in a manner that distinguishes its lobster fishery from the broader lobster fishery. NOAA Fisheries typically reviews each fishery in the summer and proposes the following year's LOF in September or October. Accordingly, while these buoy line marking rules will not go into effect until 2022, we are moving to have them promulgated this spring. This will ensure NOAA will be able to consider these new management measures prior to making the 2022 LOF determinations. This timeline further pressures us to act unilaterally, as time does not permit us

---

<sup>1</sup> <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-list-fisheries>

to react and respond to NOAA's final ALWTRP rule. I cannot wait until June 1 to develop a rule to be implemented on July 1.

### Industry Outreach

DMF recognizes that these additional marking requirements pose a challenge to commercial lobster trap fishermen. Accordingly, we are taking several steps to address and alleviate some of these challenges.

First, we are working to get the information out to industry well in advance of the 2022 implementation date. In fact, we publicly aired our strawman proposal prior to this more formal memorandum by presenting it at the March 18 MFAC business meeting and the March 23 question and answer session with commercial trap fishermen. We are hopeful that this provides for an interactive process whereby fishermen can provide us with useful feedback as we move forward this decision point.

Second, we are working to use color of the marks and the size of the marks to our favor. Recall that state waters trap fishermen are now required to fish weak rope and may comply with this by inserting one weak contrivances into their buoy line per every 60 feet of buoy line in the top 75% of the buoy line. Accordingly, fishermen may be able to have certain contrivances (e.g., red rope inserts) serve as both their weak contrivance and their gear marking modification.

Lastly, fishermen who fish in both state and federal waters may be challenged to comply with this requirement and it may force them to fish different sets of ropes when they move gear from state waters to federal waters and vice versa. This may ultimately be an inevitable inconvenience. However, staff will work with lobstermen this summer to determine if there are solutions that may allow them to place removable green markers (e.g., weave-able strands) on their buoy lines when they move gear into federal waters.

### Attachments

Draft strikethrough regulations

#### 4.13: Trap Gear Marking and Maximum Trawl Length

(1) Definitions.

Boston Harbor and its Approaches means those waters under the jurisdiction of the Commonwealth 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.

**Buoy Line** means the line that extends through the water column from the buoy at the surface to a single trap on the ocean floor or to a groundline that connects multiple traps on a trap trawl and extends no more than 12' from the first trap on the trawl.

**Black Sea Bass Pot** means any trap that has six sides and at least two unobstructed escape vents or openings in the parlor that are at least two and one-half inch in diameter, two inches square or one inch by five inches, and is set on the bottom of the ocean and designed to capture black sea bass.

**Conch Pot** means any trap without side heads or horizontal laths that is set on the bottom of the ocean and designed to capture whelks.

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

**Fish Pot** means inclusively any black sea bass pot or scup pot.

**Groundline** means lines connecting traps on a trap trawl.

**Homeport** means the location assigned as vessel's home on its commercial American Lobster Permit issued by NOAA Fisheries, or if a federal commercial American Lobster Permit is not held, then the Homeport shall mean the location assigned as the vessel's home on its Coastal Lobster Permit issued by the Division of Marine Fisheries pursuant to 322 CMR 7.01(2).

**Parlor** means that compartment of a pot that does not contain bait.

Recreational Fishing means the non-commercial taking or attempted taking of lobsters and crabs for personal or family use, sport or pleasure, which are not to be sold, traded or bartered.

**Registered Under the Laws of the Commonwealth** means any individual or vessel which is licensed by the Division of Marine Fisheries as evidenced by the issuance and possession of a valid commercial Offshore Lobster Permit or Coastal Lobster Permit, issued pursuant to 322 CMR 7.01(2), which may be in addition to any federal registration of the vessel.

**Scup Pot** means any trap that has six sides and at least two unobstructed escape vents or openings in the parlor that are at least three and one-tenth inch in diameter or two and one-quarter inch square that is set on the bottom of the ocean and designed to catch scup.

Single means individually set and buoyed traps.

Trap means any lobster trap, modified lobster trap, fish pot, conch pot or any other contrivance, other than nets, that is placed on the ocean bottom and designed to catch finfish, whelks lobsters or crabs.

Trawls means a series of single traps that are tied together and buoyed at one or both ends.

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

Vessel means any waterborn craft.

(2) Traps. The following requirements apply to marking of traps set within the waters under the jurisdiction of the Commonwealth.

(a) Buoy and Trap Marking.

1. All buoys set by commercial fishermen permitted in accordance with M.G.L. c. 130, §§ 37, 38 or 80, and 322 CMR 7.01(2): *Commercial Fisherman Permits* or (4): *Special Permits*, shall be marked with the permit number assigned by the Director.
2. All traps or cars set by commercial fishermen permitted in accordance with M.G.L. c. 130, §§ 37, 38 or 80, and 322 CMR 7.01(2): *Commercial Fisherman Permits* or (4): *Special Permits*, shall be marked with trap tags in accordance with 322 CMR 6.31: *Trap Tags*.
3. All buoys set by non-commercial lobster and crab trap fishermen, permitted in accordance with M.G.L. c. 130, §§ 37 and 38, and 322 CMR 7.01(4): *Special Permits*, shall be marked with the letter "N" prior to the permit number assigned by the Director then a dash (-) with a single digit from 0 - 9 shall follow the permit number indicating the sequential trap number in the series up to ten traps. Said alpha numerical sequence shall be permanently secured to the inside of the trap through the use of a synthetic plate or by being burned or cut into a wooden lath.
4. The buoy markings required in 322 CMR 4.13(4) shall not be less than one inch in height nor less than ½ inch in thickness or width of line.

(b) Buoy Line Marking Requirements.

1. Single Traps in LCMA1. The buoy line on single traps fished or authorized to fish in LCMA 1, as defined at 322 CMR 6.33: *Lobster Management Areas*, shall be marked with three 12 inch marks located at the top, midway and bottom of the buoy line. Each mark shall be composed of at least six inches of red and at least six inches of white. **Effective February 1, 2022, this requirement shall apply only to fish pots and conch pots.**
2. Single Traps in LCMA2. The buoy line on single traps fished or authorized to fish in LCMA 2, as defined at 322 CMR 6.33: *Lobster Management Areas*, shall be marked with three 12 inch marks located at the top, midway and bottom of the buoy line. Each mark shall be composed of at least six inches of red and at least six inches of black. **Effective February 1, 2022, this requirement shall apply only to fish pots and conch pots.**
3. Single Traps in Outer Cape Cod LCMA. The buoy line on single traps fished or authorized to fish in Outer Cape Cod LCMA, as defined at 322 CMR 6.33: *Lobster Management Areas*, shall be marked with three 12 inch marks located at the top, midway and bottom of the buoy line. Each mark shall be composed of at least six inches of red and at least six inches of yellow. **Effective February 1, 2022, this requirement shall apply only to fish pots and conch pots.**
4. Trawls in LCMA1, LCMA2 and Outer Cape Cod LCMA. The buoy line on trawls 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*, shall be marked with three red marks of at least 12 inches. A mark shall be located at the top, midway and bottom of the buoy line. **Effective February 1, 2022, this requirement shall apply only to fish pots and conch pots.**
5. Trawls in LCMA 3. The buoy line on trawls fished or authorized to fish in LCMA 3, as defined in 322 CMR 6.33: *Lobster Management Areas*, shall be marked with three black marks of at least 12 inches. A mark shall be located at the top, midway and bottom of the buoy line. **This requirement shall expire on February 1, 2022.**
6. Non-commercial Lobster and Crab Traps. The buoy line on traps fished or authorized to be fished by recreational lobster and crab fishermen, permitted in accordance with 322 CMR 7.01(4): *Special*

*Permits* shall be marked with a red mark midway on the buoy line of at least four inches.

7. Exception to Buoy Line Marking Requirements. For the buoy line marking requirements at 322 CMR 4.13(2)(b)(1)-(6), if the color of the buoy line is the same as or similar to the buoy line marking requirement color code, a similar sized white mark may be substituted for that color code at the appropriate location(s) on the buoy line.

8. New Buoy Line Marking Requirements for the Commercial Lobster and Crab Trap Fisheries in 2022. Effective February 1, 2022 the following buoy line marking requirements shall apply to lobster trap and crab trap gear:

a. Commercial Lobster Gear Seaward of the Waters Under the Jurisdiction of the Commonwealth LCMA1, LCMA2, and Outer Cape Cod LCMA. Any vessel registered under the laws of the Commonwealth with a Homeport in Massachusetts fishing commercial lobster trap gear seaward of the waters under the jurisdiction of the Commonwealth, within LCMA1, LCMA2 and the Outer Cape Cod LCMA, as defined at 322 CMR 6.33, shall mark their buoy lines with at least five color coded marks in the following configuration:

- i. There shall be one solid red mark that is at least three feet in length within the first 12 feet of the buoy line extending through the water column from the buoy to the trap.
- ii. No more than one foot below the three foot solid red mark, which occurs in the first 12 feet of the buoy line extending through the water column from the buoy to the trap, there shall be one solid green mark that is at least one foot in length .
- iii. After the first 12 feet of the buoy line, there shall be at least one mark in each third of the remaining buoy line extending down to the trap. Each mark shall be at least two feet long and comprised of a solid or non-solid red mark measuring at least one foot in length and a solid or non-solid green mark measuring at least one foot in length.
- iv. If the color of the buoy line is red or red and white striped, then a solid white mark of the same size shall be substituted for the red mark.

b. Commercial Lobster and Crab Trap Gear in the Waters Under the Jurisdiction of the Commonwealth within LCMA1, LCMA2, and Outer Cape Cod LCMA. Commercial fishermen who hold a Coastal Lobster Permit, issued pursuant to 322 CMR 7.01(2), and are fishing lobster and crab trap gear in the waters under the jurisdiction of the Commonwealth within LCMA1, LCMA2, and the Outer Cape Cod LCMA, as defined at 322 CMR 6.33, shall mark their buoy lines with at least five color coded marks in the following configuration:

- i. There shall be one solid red mark that is at least three feet in length within the first 12 feet of the buoy line extending through the water column from the buoy to the trap.
- ii. After the first 12 feet of the buoy line, there shall be at least four two foot solid or non-solid red marks in the remaining buoy line extending down to the trap with two of the red marks occurring in the top 50% of the buoy line and the other two red marks occurring in the bottom 50% of the buoy line.
- iii. There shall be no length of buoy line greater than 60 feet without a red mark.
- iv. If the color of the buoy line is red or red and white striped, then a solid white mark of the same size shall be substituted for the red mark.

c. Commercial Lobster Trap Gear in within LCMA3. Any vessel registered under the laws of the state and with a Homeport in Massachusetts fishing lobster trap gear in in LCMA3, as defined at 322 CMR 6.33, shall mark their buoy lines with at least five color-coded marks in the following configuration:

- i. There shall be one solid black mark that is at least three feet in length within the first

12 feet of the buoy line extending through the water column from the buoy to the trap.

ii. No more than one foot below the three foot solid black mark, which occurs in the first 12 feet of the buoy line extending through the water column from the buoy to the trap, there shall be one solid green mark that is at least one foot in length.

ii. After the first 12 feet of the buoy line, there shall be at least one sold or non-solid black that is at least one foot long in each third of the remaining buoy line extending down to the trap.

(c) Surface Identification of Traps.

1. Single Traps. Single traps shall each be marked with a single buoy measuring at least seven inches by seven inches or five inches by 11 inches. Sticks are optional, but if used, shall not have a flag attached.
2. Trawls. The east end of a trawl shall be marked with a double buoy, consisting of any combination of two buoys measuring at least seven inches by seven inches or five inches by 11 inches and one or more three foot sticks. The west end of a trawl shall be marked with a single buoy measuring at least seven inches by seven inches or five inches by 11 inches buoy with a three foot stick and a flag.
3. Exemption for Boston Harbor and its Approaches. It shall be lawful to fish with trawls marked on one end with a plastic bottle attached by at least ten feet of  $\frac{1}{2}$  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 single seven inches by seven inches or five inches by 11 inches shall mark the other end of the trawl. Sticks need not be used.

- (d) Trawl Maximum Length. The total length of trawls set in waters under the jurisdiction of the Commonwealth shall not exceed 2,500 feet from end to end.

## 12.02: Definitions

For the purposes of 322 CMR 12.00 the following terms shall have the following meanings:

1,700 pound buoy line means any buoy line with a breaking strength of 1,700 pounds or less or any buoy line that is rigged with no less than one 1,700 contrivance per every 60 feet of buoy line in the top 75% of the buoy line. Only contrivances be approved by NOAA Fisheries pursuant to the Atlantic Large Whale Take Reduction Plan shall be lawful.

Abandon means to leave any fixed gear in the waters for a period of at least 30-days without hauling the gear or to leave any fixed gear in any fixed gear seasonal closure.

Bottom or Sink Gillnet means a gillnet, anchored or otherwise, that is designed to be, capable of being, or is fished on or near the bottom in the lower third of the water column.

**Buoy Line means the line that extends through the water column from the buoy at the surface to a single trap on the ocean floor or to a groundline that connects multiple traps in a trawl and extends no more than 12' from the first trap in the trawl.**

Buffer Zone means an area outward from a right whale a distance of 500 yards in all directions.

Cape Cod Bay Vessel Speed Restriction Area. The Cape Cod Bay Vessel Speed Restriction Area shall consist of all waters of Cape Cod Bay south of 42° 08' north latitude and those waters north and east of Cape Cod west of 70° 10' west longitude.

Commercial Fisherman means any person who may set gear or catch, possess or land fish for the purpose of sale, barter, or exchange or keeps for personal use any fish taken under the authority of a commercial fisherman permit issued in accordance with M.G.L. c. 130, §§ 2, 37, 38 or 80, and 322 CMR 7.01(2).

Double means two traps connected together by a groundline with a single vertical line buoy attached.

Fixed Fishing Gear means any bottom or sink gillnets or traps that are set on the ocean bottom or in the water column and are usually connected to lines that extend to the water's surface.

Gillnet means anchored, or surface or drifting vertical walls of webbing, buoyed on top and weighted at the bottom, designed to capture fish by entanglement, gilling, or wedging.

Groundlines means the lines connecting traps on a trap trawl and lines connecting gillnets to anchors.

Harass means to approach, pursue, chase, follow, interfere with, observe, threaten, harm in any fashion, turn in any manner to intercept or attempt to engage in any such conduct.

Massachusetts Restricted Area means those waters described in the federal Atlantic Large Whale Take Reduction Plan and bounded by the following coordinates: beginning at the shoreline at 42° 12' N latitude; thence heading due east to where 42° 12' N latitude intersects with 70° 30' W longitude; thence due north to where 70° 30' W longitude intersects with 42° 30' N latitude; thence due east to where 42° 30' N latitude intersects with 69° 45' W longitude; thence due south to where 69° 45' W longitude intersects with 41° 56.5' N latitude; thence in a straight line in a southeasterly direction to where it intersects with 41° 21.5' N latitude and 69° 16' W longitude; thence in a straight line in a west southwesterly direction to where it intersects with 41° 15.3' N latitude and 69° 57.9' W longitude at the shoreline of Nantucket; thence following the eastern shoreline of Nantucket to where it intersects with 70° 00' W longitude; thence due north to where 70° 00' W longitude intersects with the shoreline of Cape Cod at 41° 40.2' N latitude; thence following the shore line of Cape Cod back to the original point.

Negatively Buoyant Line means line that has a specific gravity equal to or greater than that of seawater, 1.03, and does not float up in the water column.

Positively Buoyant Line means line that has a specific gravity less than that of seawater, 1.03, and floats up in the water column.

Recreational Fisherman means any person permitted in accordance with G.L. c. 130, § 38 and 322 CMR 7.01(4)(b) to catch, possess and land lobster or crabs for family use, sport, or pleasure, which are not to be sold, traded, or bartered.

Right Whale means that species of marine mammal known as *Eubalaena (Balaena) glacialis*.

Single Trap means individual set and buoyed traps.

To Abandon or To Store means to leave fixed gear in the water without hauling it at least every 30 days or in prohibited areas during prohibited periods.

To Fish means to use, set, maintain, leave in the water or haul gillnets or traps to harvest, catch, or take any species of fish or lobster.

Trap means any lobster trap, modified lobster trap, fish pot, fish trap, conch pot, or other contrivance, other than nets, that is placed on the ocean bottom and designed to catch finfish, whelks, lobsters or crabs.

Trawls means a series of single traps that are tied together and buoyed at one or both ends.

Vessel means any waterborn craft.

Weak Link means a breakable section or device that will part when subjected to specified poundage of pull pressure and after parting, will result in a knot-less end, no thicker than the diameter of the line, the so-called "bitter end" to prevent lodging in whale baleen. Lawful weak links are those devices approved by the National Marine Fisheries Service pursuant to the Atlantic Large Whale Take Reduction Plan and published in the Atlantic Large Whale Take Reduction Plan's Supplemental Gear Guide.