

322 CMR 4.00: FISHING AND SHELLFISH EQUIPMENT

Section

- (4.01: Use of Purse Seines in Cape Cod Bay (Reserved))
- 4.02: Use of Nets in Inshore Restricted Waters
- 4.03: Fish Weir Buffer Zone
- 4.04: Use of Sink Gillnets
- (4.05: Further Regulation of Fishing Gear (Reserved))
- 4.06: Use of Mobile Gear
- (4.08: Fishing and Shellfish Equipment (Reserved))
- 4.09: Restrictions on Hook and Line Gear
- 4.11: Marking of Dive Gear
- 4.12: Use of Nets for Taking Striped Bass (*Morone Saxatalis*) or Shad (*Alosa Sapidissima*)
- 4.13: Trap Gear Marking and Maximum Trawl Length
- 4.14: Surface Gillnet Restrictions
- 4.15: Use of Cast Nets for Harvest of Bait

(4.01: Use of Purse Seines in Cape Cod Bay: (Reserved))

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, 322 CMR 4.02 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 an imaginary straight line drawn from the dome on Castle Hill, Ipswich to the southernmost tip of Plum Island – Approx. 5° True.
3. Essex Bay. Waters inside an imaginary straight line drawn from the northwestern most point of Wingaersheek Beach to the southeastern most point of Castle Neck – Approx. 72° True.
4. Annisquam River, Gloucester. Waters inside an imaginary straight line drawn from northern tip of Farm Point to the Annisquam River Horn on Wigwam Point – Approx. 53° True.
5. Rockport Harbor. Waters inside an imaginary straight line drawn from the spit on the southern shore of the Harbor to the flasher on the eastern most tip of the north breakwater – Approx. 354° True.
6. Gloucester Harbor. Waters inside an imaginary straight line drawn from Eastern Point Flashing beacon to Mussel Point – Approx. 350° True.
7. Manchester Harbor. Waters inside an imaginary straight line drawn from western most tip of Proctor Point to Tucks Point – Approx. 350° True.
8. Beverly Harbor. Waters inside an imaginary straight line drawn from the eastern most tip of Yacht Club Pier to southernmost tip of Woodbury Point – Approx. 29° True.

## 4.02: continued

9. Salem Harbor. Waters inside an imaginary straight line drawn from Ft. Pickering Light to northernmost tip of Naugus Head, Marblehead -- Approx. 148° True.
10. Marblehead Harbor. Waters inside an imaginary straight 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 an imaginary straight line drawn from easternmost tip of Point of Pines to the Cupola on Little Nahant -- Approx. 108° True.
12. Boston Harbor. Waters inside imaginary straight lines drawn from the tower on Telegraph Hill in the town of Hull to the southernmost point of Lovells Island thence from the northernmost point of Lovells Island to the southeasternmost tip of Deer Island.
- (b) Cape Cod Canal to Boston.
  1. Little Harbor, Cohasset. Waters west and south of Atlantic Avenue.
  2. Cohasset Harbor. Waters inside an imaginary straight line drawn from northernmost point of Strawberry Point to easternmost point of Quarry Point -- Approx. 268° True.
  3. Scituate Harbor. Waters inside an imaginary straight 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 an imaginary straight line drawn from northernmost point of Fourth Cliff to the southernmost point of Third Cliff -- Approx. 322° True.
  5. Green Harbor, Marshfield. Waters inside an imaginary straight line drawn between the southernmost tips of the entrance jetties.
  6. Plymouth, Kingston, Duxbury Harbors. All waters inside an imaginary straight 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 an imaginary straight line drawn between northernmost tips of entrance jetties.
  2. Scorton Harbor, Sandwich. Waters inside an imaginary straight line drawn between northernmost tips of entrance jetties.
  3. Barnstable Harbor. Waters inside an imaginary straight 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 an imaginary straight line drawn between northernmost tips of entrance jetties.
  5. Wellfleet Harbor. Waters inside an imaginary straight 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 an imaginary straight line drawn between the westernmost tips of the entrance jetties.
  7. Provincetown Harbor. Waters inside an imaginary straight line drawn from the northernmost tip of Long Point 13° True to the tank west of Mayflower Heights.
  8. Nauset Harbor. Waters inside an imaginary straight 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 an imaginary straight 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 an imaginary straight 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 an imaginary straight 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 an imaginary straight line drawn between southernmost tips of entrance breakwaters.
  16. Swan Pond River and Swan Pond, Dennis. All waters.

## 4.02: continued

17. Bass River, Yarmouth - Dennis. Waters inside an imaginary straight line drawn between southernmost tips of entrance jetties.
  18. Parker River, Yarmouth. Waters inside entrance.
  19. Hyannis Harbor - Lewis Bay. Waters inside an imaginary straight line drawn from Point Gammon to the flashing green beacon on the Hyannisport breakwater -- Approx. 307° True.
  20. Hall Creek - Hyannisport. Waters inside entrance.
  21. East Bay, Barnstable. Waters inside an imaginary straight line drawn from the southernmost tip of Long Beach to the southernmost tip of the south breakwater.
  22. West Bay, Barnstable. Waters inside an imaginary straight line drawn between southernmost tips of entrance breakwaters.
  23. Cotuit Bay- North Bay, Barnstable. Waters inside an imaginary straight line drawn from northwesternmost point of Oyster Harbors Beach (Sampsons Island) to Bluff Point -- Approx. 212° True.
  24. Popponesset Bay, Mashpee - Barnstable. Waters inside an imaginary straight inside line drawn from northernmost point of Thatch Island to Meadow Point -- Approx. 289° True
  25. Waquoit Bay, Mashpee - Falmouth. Waters inside an imaginary straight line drawn between southernmost tips of entrance jetties.
  26. Eel Pond, Falmouth. Waters inside an imaginary straight line drawn between southernmost tips of entrance jetties.
  27. Bournes Pond, Falmouth. Waters inside entrance.
  28. Green Pond, Falmouth. Waters inside an imaginary straight line drawn between southernmost tips of entrance jetties.
  29. Little Pond, Falmouth. Waters inside entrance.
  30. Falmouth Inner Harbor. Waters inside of an imaginary straight 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 an imaginary straight line drawn from Juniper Point to Nobska Point Light -- Approx. 100° True.
  34. Great Harbor, Woods Hole. Waters inside an imaginary straight line drawn from Juniper Point to Penzance Point -- Approx. 287° True.
- (d) The Islands.
1. Nantucket Harbor. Waters inside an imaginary straight line drawn between the outermost tips of the entrance jetties.
  2. Madaket Harbor, Nantucket. Waters inside an imaginary straight line drawn from Eel Point -- Approx. 196° True -- to the southwesternmost tip of Madaket.
  3. Vineyard Haven Harbor. Waters inside an imaginary 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 an imaginary straight line drawn between outermost tips of breakwaters.
  5. Hart Haven Harbor-Farm Pond, Oak Bluffs. Waters inside entrance jetties.
  6. Sengekontackett Pond, Oak Bluffs-Edgartown. 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. Waters inside an imaginary straight line drawn south 180° True from the north side of Cape Poge Gut.
  9. Edgartown Great Pond. Waters inside entrance.
  10. Tisbury Great Pond. Waters inside entrance.
  11. Menemsha Pond. Waters inside an imaginary straight line drawn between outermost tips of entrance jetties.
  12. James Pond, West Tisbury. Waters inside entrance.
  13. Lake Tashmoo, Tisbury. Waters inside an imaginary straight line drawn between outermost tips of entrance jetties.

## 4.02: continued

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

1. Buzzards Bay. Waters inside Buzzards Bay north and east of an imaginary straight line drawn from the southernmost point of Gooseberry Neck to Cuttyhunk Light.
2. Westport River. Waters inside an imaginary straight line drawn from Westport Light to the westernmost tip of Horseneck Point - Approx. 331° True.
3. Richmond Pond, Westport. Waters inside entrance.
4. Mount Hope Bay. 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. Waters inside entrance.

(f) Narragansett Bay Tributaries.

1. Runnins River. Waters within the river.
2. Palmer River. 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 endorsement issued by the Director pursuant to 322 CMR 7.01(4)(a): *Regulated Fishery*.

(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
- (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.
- (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 1<sup>st</sup> and May 31<sup>st</sup>; or
- (b) without a special permit issued from the Director or contrary to the terms or conditions of the special permit.

4.03: 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.

## 4.03: continued

(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 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.

(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.

4.04: Use of Sink Gillnets

(1) Definitions. For the purposes of 322 CMR 4.03 the following terms have the following meanings:

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

Gillnet means any anchored or drifting vertical wall of webbing that is buoyed at the top and weighted at the bottom and designed to capture fish by entanglement, gilling or wedging. This includes, but is not limited to, flatfish gillnets, surface gillnets and sink gillnets.

## 4.04: continued

Sink Gillnet means any gillnet, anchored or otherwise, that is designed to be, capable of being, or is fished on or near the lower third of the water column. Sink gillnets include, but are not limited to, stand up and tie down gillnets.

West End means that part of the gillnet extending from 181° through 00° magnetic.

(2) Permitting Requirements. A regulated sink gillnet fishery permit endorsement, issued in accordance with 322 CMR 7.01(4)(a): *Regulated Fishery Permit Endorsement*, is required to set or fish a sink gillnet in the waters under the jurisdiction of the Commonwealth.

(3) Sink Gillnet Specifications.

(a) Maximum Length. Within the waters under the jurisdiction of the Commonwealth, the total continuous length of connected sink gillnets shall not exceed 2,400 feet from end to end of an entire net.

(b) Gear Marking and Configuration Requirements.

1. All buoys used to mark sink gillnets shall be permanently and visibly marked with the permit number of the lawfully permitted owner.
2. The east end of a sink gillnet shall be marked with a high flyer.
3. The west end of a sink gillnet shall be marked with a high flyer with a flag.

(c) Mesh Size and Measurement.

1. Mesh Size. Sink gillnets shall have mesh openings not less than 6½ inches.
2. Measurement of Mesh. Mesh size is measured by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and a thickness of 3.2 millimeters, inserted into the meshes under a pressure or pull of five kilograms. The mesh size will be the average of the measurements of any series of 20 consecutive meshes.

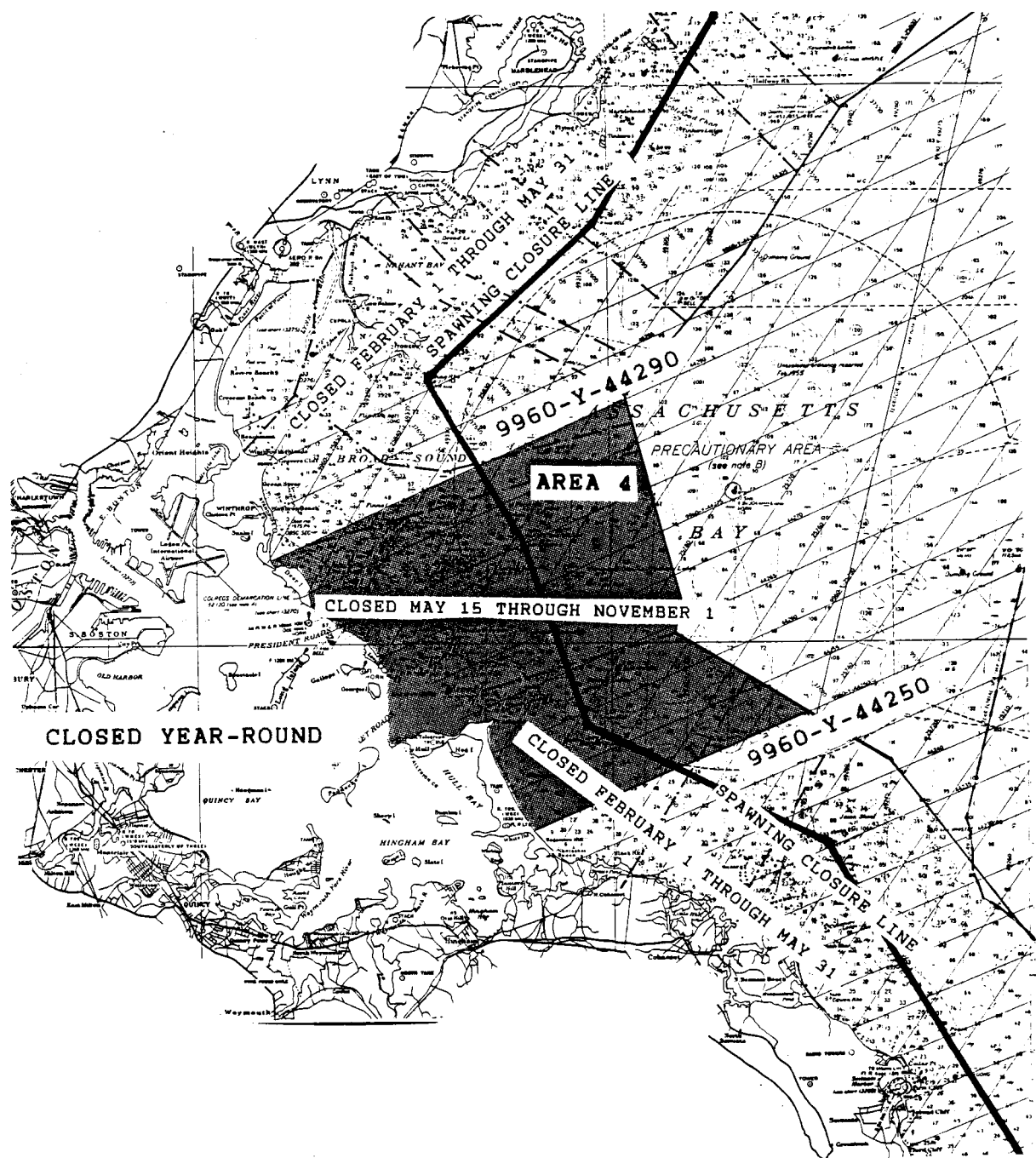
(4) Areas Closures.

(a) South and West of Cape Cod. It is unlawful to use, set, maintain, or fish with any sink gillnets during the period of April 1<sup>st</sup> through November 15<sup>th</sup> 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.

(b) Greater Boston Harbor. It is unlawful to use, set, place or maintain any sink gillnet from May 15<sup>th</sup> through November 1<sup>st</sup> 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 Chart 322 CMR 4.04(4)(b).

4.04: continued

Chart 322 CMR 4.04(4)(b)



4.05: Further Regulation of Fishing Gear (Reserved)

4.06: Use of Mobile Gear

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

4.06: continued

Coastal Access Permit (CAP) means the regulated fishery permit endorsement for certain mobile gear, issued pursuant to M.G.L. c. 130, § 80, and 322 CMR 7.01(4)(a): *Regulated Fishery* and 7.05: *Coastal Access Permit (CAP)*.

Cod End means all parts of a net a distance of 50 continuous meshes forward of the terminal portion of the net where fish are retained.

Director means the Director of the Division of Marine Fisheries.

Division means the Division of Marine Fisheries.

Dredge means mobile fishing gear consisting of a mouth frame attached to a holding bag constructed of metal rings, mesh or cages.

Effective Fishing Width means the distance measured between the extreme outside edges of the mouth of a dredge or dredges.

Fishing or Fish For means to harvest, catch or take or attempt to harvest, catch or take any fish or shellfish for commercial purposes. A vessel is presumed to be fishing if its dredge, trawl or seine gear remains in the water or is not on board and secured to the vessel's sides or sterns.

Ghost Gear means any fixed fishing gear including, but not limited to, gillnets and traps with their associated ropes 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 any dredge, trawl or seine and placing the contents of the catch on the deck or hold of the vessel.

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 fishing ½ hour after sunset to ½ hour before sunrise during the period of March 1<sup>st</sup> through October 31<sup>st</sup>, or from 6:00 P.M. to 6:00 A.M. during the period of November 1<sup>st</sup> through the last day of February.

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

Person means any individual, including the captain, master or crew member of a fishing vessel, or any firm, partnership, corporation or other business entity.

Purse Seine means any vertical wall of netting with floats on the top and weights at the bottom that is deployed to surround a school of fish and encloses fish in the netting by drawing together and tightening the bottom of the net.

Seine means a net with long narrow wings that is rigged with floats and weights that is moved through the water to catch fish or any floated or weighted net that is used to encircle fish and is closed by means of a drawstring through threaded rings attached to the bottom of the net.

## 4.06: continued

Small Mesh Squid Trawl Exempted Area means that area within the waters under the jurisdiction of the Commonwealth beginning where 41° 40' north latitude intersects with the eastern shoreline of Chatham; thence in a straight line due east to where it intersects with the three nautical mile line, as described on NOAA Chart #13646; thence following the three nautical mile line, as described on NOAA Charts #13246 and #13237 in a southerly direction to where it intersects with 70° 00' west longitude; thence due south along the 70° meridian to where it intersects again with the three nautical mile line, as described on NOAA Chart #13237; thence following the three nautical mile line, as described on NOAA Charts #13237 and #13218 in a southerly then westerly direction to the Massachusetts-Rhode Island seaward marine boundary; thence following the Massachusetts-Rhode Island seaward marine boundary in a northerly direction to the shoreline; thence following the shoreline in an easterly direction to the starting point. This shall exclude all applicable inshore restricted waters defined at 322 CMR 4.02.

Small Mesh Trawl means any trawl with net mesh openings that are less than 6½ inch in the cod end and six inches throughout the remainder of the net.

Southern Shoreline of the Elizabeth Islands means the area circumscribed by an imaginary line beginning at the shortest straight line between Cuttyhunk Island and Nashawena Island; the shortest straight line between the easternmost point of Nashawena Island and the southwesternmost point of Pasque Island; the shortest straight line between Pasque Island and Naushon Island; the shortest straight line between Jobs Neck on the eastern side of Naushon Island to the southernmost point on Nonamesset Island; the shortest straight line from Mink's Point on the northernmost point of Nonamesset Island to the western entrance of Little Harbor in Woods Hole.

Three Mile Line means that line as it appears on NOAA charts demarcating waters that are three nautical miles from the coastline.

Top of the Trawl Net means the 50% of the trawl net that would not be in contact with the ocean bottom during a tow if the trawl net were laid flat on the ocean floor. It shall not include head ropes attached to the net.

Trawl means any mobile fishing gear or nets which are towed, hauled, or dragged through the water for the harvest of fish including, but not limited to, otter trawls, beam trawls, and pair trawls.

Twine Top means the net material or other material on the top of a scallop dredge.

Upper Cape Cod Whiting Area means that area within the waters under the jurisdiction of the Commonwealth encompassed by an imaginary straight line that begins 42° 7.85' north latitude and 70° 30.1' west longitude; thence in a south southeasterly direction to where it intersects with 42° 00' north latitude and 70° 24.076' west longitude; thence due east to where it intersects with 42° 00' north latitude and 70° 13.225 west longitude; thence in a north northwesterly direction to where it intersects with 42° 4.75' north latitude and 70° 16.95' west longitude; thence in an east northeasterly direction to where it intersects with 42° 8.35' north latitude and 70° west longitude; thence in a northwesterly direction to 42° 14.05' north latitude and 70° 8.8' west longitude; thence in a west southwesterly direction to the initial coordinate.

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) Seasonal Mobile Gear Closures. The following closures shall apply to the use of mobile gear within the waters under the jurisdiction of the Commonwealth.

## 4.06: continued

(a) Area 1 - North Shore Region - Year Round Closure. Except as provided at 322 CMR 4.06(2)(a)1. and 4.06(2)(k), it shall be unlawful to fish with mobile gear within the waters of the North Shore Region Year Round Closure. The North Shore Region Year Round Closure consists of those waters under the jurisdiction of the Commonwealth encompassed by an imaginary line beginning where 41° 21.552' north latitude intersects with the eastern shoreline of Deer Island in Winthrop; thence in a straight line in an east northeasterly direction to where it intersects with 42° 24.497' north latitude and 70° 49.232' west longitude; thence in a straight line in a northeasterly direction to where it intersects with 42° 27.018 north latitude and -70° 46.446' west longitude; thence continuing in a straight line in a northeasterly direction to where it intersects with 42° 29.664' north latitude and 70° 43.914' west longitude; thence in a straight line in a northeasterly direction to where it intersects with 42° 31.688' north latitude and 70° 40.164' west longitude; thence in a straight line in a easterly direction to where it intersects with 42° 31.836' north latitude and 70° 38.118' west longitude; thence in a straight line in an east northeasterly direction to 42° 32.502' north latitude and 70° 36.432 west longitude; thence in a straight line in a northeasterly direction to the nearest point where it intersects with the three nautical mile line, as described on NOAA Chart #13267, at the 70° 36.162' west longitude; thence following the three nautical mile line, as described on the NOAA Charts #13267 and 13278, to the seaward junction of the Massachusetts - New Hampshire marine boundary; thence shoreward along the Massachusetts - New Hampshire marine boundary to the shoreline; and thence in a southerly direction along the shoreline and concluding at the starting point.

1. North Shore Mobile Gear Seasonal Area Exemptions. Coastal Access Permit holders further endorsed for North Shore Mobile Gear may fish within the North Shore Region Year Round Closure Area in accordance with the following exemptions:

a. Area 1A Gloucester/Rockport Exemption. During the periods of February 1<sup>st</sup> through May 15<sup>th</sup> and June 15<sup>th</sup> through September 30<sup>th</sup>, mobile gear may be fished within those waters under the jurisdiction of the Commonwealth encompassed by an imaginary line beginning off the northernmost Gloucester-Rockport coastline where 70° 37.365' west longitude intersects with the three nautical mile line, as described on NOAA Chart #13278; thence following in a straight line in a south southwesterly direction to where it intersects 42° 42.848' north latitude and 70° 37.632' west longitude; thence in a straight line in a southeasterly direction to where it intersects with 42° 40.806' north latitude and 70° 33.468' west longitude; thence in a straight line in a south southeasterly direction to where it intersects with 42° 39.504' north latitude and 70° 32.776' west longitude; thence in a straight line due south to where it intersects with 42° 37.806' north latitude and 70° 32.776 west longitude; thence in a straight line in a south southwesterly direction to where it intersects with 42° 35.490' north latitude and 70° 34.578' west longitude; thence in a straight line in a south easterly direction to the nearest point where it intersects with 70° 33.770' west longitude at the three nautical mile line, as described on NOAA Chart #13278; thence following the three nautical mile line, as described on NOAA Chart #13278, in a northerly direction concluding at the starting point.

The Director shall amend the Area 1A Gloucester/Rockport exemption to prohibit mobile gear fishing within the period of May 1<sup>st</sup> through May 15<sup>th</sup> during any year in which the Director lifts the fixed gear seasonal closures at 322 CMR 12.04 prior to May 15<sup>th</sup> of that year. This prohibition to mobile gear fishing shall take effect on the same date that the fixed gear seasonal closures are lifted. This shall be accomplished by the Division filing a Notice of Declaration with the Secretary of State for publication in the Massachusetts Register, publishing the Notice of Declaration on the Division's Legal Notice web page, and distributing the Notice of Declaration *via* the Division's e-mail listserve.

b. Area 1B Ipswich Bay Exemption. During the period December 15<sup>th</sup> through April 30<sup>th</sup>, mobile gear may be fished within those waters under the jurisdiction of the Commonwealth encompassed by an imaginary line beginning at the intersection of 70° 47.838' west longitude with the Massachusetts - New Hampshire marine boundary; thence following the Massachusetts - New Hampshire marine boundary seaward in an easterly direction to where it intersects with the three nautical mile line, as described on NOAA Chart #13278; thence following the three nautical mile line, as described on NOAA Chart #13278, in a southerly direction to the northern Gloucester-Rockport coastline to where it intersects with 70° 37.365' west longitude; thence in a straight line in a south southwesterly direction to where it intersects with 42° 42.222' north latitude and 70° 38.130' west longitude; and thence following one nautical mile seaward from shore in a northerly direction concluding at the starting point.

## 4.06: continued

c. Restrictions on the Use of Trawl Gear during Area 1A and Area 1B Seasonal Exemptions. It shall be unlawful for any fisher fishing with mobile gear during the Area 1A and 1B seasonal exemptions:

- i. To fish trawl nets configured with a sweep or a foot rope greater than 80 feet.
- ii. To fish trawl nets, unless configured with a sweep or foot ropes composed of chain, wire or discs.
- iii. To fish with roller gear.
- iv. To possess or retain any lobsters. Any lobsters caught shall be immediately returned to the sea.

(b) Area 2 Closure - Boston Harbor - April 1<sup>st</sup> through December 31<sup>st</sup>. Except as provided at 322 CMR 4.06(2)(k), it shall be unlawful to fish with mobile gear from April 1<sup>st</sup> through December 31<sup>st</sup> within the waters of the Area 2 Closure. The Area 2 Closure consists of those waters under the jurisdiction of the Commonwealth encompassed by an imaginary line beginning where 42° 21.552' north latitude intersects with the eastern shoreline of Deer Island in Winthrop; thence in a straight line in an east northeasterly direction to where it intersects with 42° 24.497' north latitude and 70° 49.232' west longitude; thence in a straight line in a southwesterly direction to where it intersects with 42° 24.432' north latitude and 70° 49.302' west longitude; thence in a straight line in a south southeasterly direction to where it intersects with 42° 20.748' north latitude and 70° 48.000' west longitude; thence in a straight line in a southerly direction to where it intersects with 42° 20.100' north latitude and 70° 48.114' west longitude; thence in a straight line in an east southeasterly direction to where it intersects with 42° 18.762' north latitude and 70° 45.222' west longitude; thence in a straight line in a west southwesterly direction to where 42° 16.646' north latitude intersects with the eastern shoreline of Nantasket Beach in Hull; and thence following the shoreline of Hull in a north and westerly direction along the shoreline concluding at the starting point.

(c) Area 3 - Hull to Plymouth - May 1<sup>st</sup> through October 31<sup>st</sup>. Except as provided at 322 CMR 4.06(2)(k), it shall be unlawful to fish with mobile gear from May 1<sup>st</sup> through October 31<sup>st</sup> within the waters of the Area 3 Closure. The Area 3 Closure consists of those waters under the jurisdiction of the Commonwealth beginning where 42° 16.646' north latitude intersects with the eastern shoreline of Nantasket Beach in Hull; thence in a straight line in an east northeasterly direction to where it intersects with 42° 18.762' north latitude and 70° 45.222' west longitude; thence in a straight line in an east southeasterly direction to where it intersects with 42° 17.664' north latitude and 70° 42.684' west longitude; thence in a straight line in a southeasterly direction to the nearest point where it intersects with the three nautical mile line, as described on NOAA Chart #13267, at 70° 40.986' west longitude; thence following the three nautical mile line, as described on NOAA Chart #13267, in a southeasterly direction to where it intersects with 70° 35.367' west longitude; thence in a straight line in a south southeasterly direction to where it intersects with 42° 6.948' north latitude and 70° 34.548' west longitude; thence in a straight line in a south southeasterly direction to where it intersects with 42° 1.632' north latitude and 70° 31.950' west longitude; thence in a straight line in a south southeasterly direction to where it intersects with 42° 0.984' north latitude and 70° 31.464' west longitude; thence in a straight line in a west southwesterly direction to where it intersects with 42° 0.200' north latitude at the southeastern coastline of Gurnett Point in Plymouth; thence in a northwesterly direction along the shoreline and concluding at the starting point.

(d) Area 4 - Plymouth to Provincetown - May 1<sup>st</sup> through October 31<sup>st</sup>. Except as provided at 322 CMR 4.06(2)(k), it shall be unlawful to fish with mobile gear from May 1<sup>st</sup> through October 31<sup>st</sup> within the waters of the Area 4 Closure. The Area 4 Closure consists of those waters under the jurisdiction of the Commonwealth beginning where 42° 0.200' north latitude intersects with the southeastern shoreline of Gurnett Point in Plymouth; thence in a straight line in east northeasterly direction to where it intersects with 42° 0.984' north latitude and 70° 31.434' west longitude; thence in a straight line in south southeasterly direction to where it intersects with 41° 56.652' north latitude and 70° 28.000' west longitude; thence in a straight line in a southerly direction to where it intersects with 41° 51.227' north latitude and 70° 27.536' west longitude; thence in a straight line in a southerly direction to where it intersects with 41° 49.075' north latitude and 70° 27.289' west longitude; thence in a straight line in a southeasterly direction to where it intersects with 41° 47.978' north latitude and 70° 25.036' west longitude; thence in a straight line in an easterly direction to where it intersects with 41° 47.339' north latitude and 70° 22.520' west longitude; thence in a straight line in an easterly direction to where it intersects with 41° 47.137' north latitude and 70° 19.379' west longitude; thence in a straight line in an easterly direction to where it intersects with 41° 47.298' north latitude and 70° 16.632' west longitude; thence in a straight line in an east north

## 4.06: continued

easterly direction to where it intersects with 41° 48.630' north latitude and 70° 8.650' west longitude; thence in a straight line in a northerly direction to where it intersects with 41° 51.666' north latitude and 70° 8.130' west longitude; thence in a straight line in a northerly direction to where it intersects with 41° 56.550' north latitude and 70° 8.550' west longitude; thence in a straight line in a northwesterly direction to where it intersects with 41° 57.186' north latitude and 70° 10.000' west longitude; thence in a straight line due north along the 70° 10' meridian to where it intersects with 41° 59.658' north latitude; thence in a straight line in a northwesterly direction to where it intersects with 42° 3.498' north latitude and 70° 15.750' west longitude; thence in a straight line in a east northeasterly direction to where it intersects with 42° 3.654' north latitude at the westerly coastline of Race Point in Provincetown; and thence in a westerly direction along the shoreline of Cape Cod Bay concluding at the starting point.

(e) Area 5 - Eastham to Mashpee - May 1<sup>st</sup> through October 31<sup>st</sup>. Except as provided at 322 CMR 4.06(2)(k), it shall be unlawful to fish with mobile gear from May 1<sup>st</sup> through October 31<sup>st</sup> within the waters of the Area 5 Closure. The Area 5 Closure consists of those waters under the jurisdiction of the Commonwealth beginning where 41° 51.666' north latitude intersects with the easterly shoreline of Nauset Beach in Eastham; thence in a straight line due east to where it intersects with the three nautical mile line, as described on NOAA Chart #13246; thence following the three nautical mile line, as described on NOAA Charts #13246 and #13237 in a southerly direction to where it intersects with the 70° meridian; thence following the 70° meridian due north to where it intersects with 41° 29.805' north latitude; thence on following an arc heading in a northwesterly direction around Monomoy Island that connects the following coordinates: 41° 29.724' north latitude and 70° 1.087' west longitude; 41° 29.904' north latitude and 70° 2.335' west longitude; 41° 30.323' north latitude and 70° 3.313' west longitude; 41° 30.926' north latitude and 70° 4.079' west longitude; 41° 31.718' north latitude and 70° 4.665' west longitude; 41° 32.780' north latitude and 70° 4.665' west longitude; 41° 33.842' north latitude and 70° 4.702' west longitude; and 41° 34.748' north latitude and 70° 4.510' west longitude; thence in a straight line in a northeasterly direction to where it intersects with 41° 35.372' north latitude and 70° 3.915' west longitude; thence in a straight line in a north northwesterly direction to where it intersects with 41° 35.749' north latitude and 70° 4.098' west longitude; thence in a straight line in a north northwesterly direction to where it intersects with 41° 36.147' north latitude and 70° 4.211' west longitude; thence in a straight line in a northerly direction to the nearest point where it intersects with the three nautical mile line, as described on NOAA Chart #13237, at 41° 36.431' north latitude; thence following the three nautical mile line, as described on NOAA Chart #13237, in a westerly direction to where it intersects with 70° 28.086' west longitude; thence in a straight line in a north northwesterly direction to where it intersects with 70° 28.828' west longitude at the southerly shoreline of Succonesset Point in Mashpee; and thence in a easterly direction along the shoreline of Cape Cod concluding at the starting point.

(f) Area 6A - Mashpee to Falmouth ½ Nautical Mile Closure - June 1<sup>st</sup> through October 31<sup>st</sup>. Except as provided at 322 CMR 4.06(2)(k), it shall be unlawful to fish with mobile gear from June 1<sup>st</sup> through October 31<sup>st</sup> within the waters of the Area 6A Closure. The Area 6A Closure consists of those waters under the jurisdiction of the Commonwealth beginning where 70° 39.310' longitude intersects with the southerly shoreline of Nobska Point in Falmouth; thence in a straight line in a south southeasterly direction to where it intersects with 41° 30.498' north latitude and 70° 39.114' west longitude; thence eastward along an imaginary line that is ½ nautical mile from the shoreline to where it intersects with 41° 32.868' north latitude and 70° 28.806' west longitude; thence in a straight line in a northerly direction to where it intersects with 70° 28.908' west longitude at the southerly shoreline of Succonessett Point in Mashpee; and thence in a westerly direction along the shoreline of Cape Cod concluding at the starting point.

(g) Area 6B - Mashpee to Falmouth ¼ Nautical Mile Closure - April 23<sup>rd</sup> through May 31<sup>st</sup>. Except as provided at 322 CMR 4.06(2)(k), it shall be unlawful to fish with mobile gear from April 23<sup>rd</sup> through May 31<sup>st</sup> within the waters of the Area 6B Closure. The Area 6B Closure consists of those waters under the jurisdiction of the Commonwealth beginning where 70° 39.310' longitude intersects with the southerly shoreline of Nobska Point in Falmouth; thence in a straight line in a south southeasterly direction to where it intersects with 41° 30.703' north latitude and 70° 39.191' west longitude; thence eastward along an imaginary line that

## 4.06: continued

is ¼ nautical mile from the shoreline to where it intersects with 41° 33.134' north latitude and 70° 28.854' west longitude; thence in a straight line in a northerly direction to where it intersects with 70° 28.908' west longitude at the southerly shoreline of Succonessett Point in Mashpee; and thence in a westerly direction along the shoreline of Cape Cod concluding at the starting point.

(h) Area 7 - Southern Shore of the Elizabeth Islands - May 1<sup>st</sup> through October 31<sup>st</sup>. Except as provided at 322 CMR 4.06(2)(k), it shall be unlawful to fish with mobile gear from May 1<sup>st</sup> through October 31<sup>st</sup> within the waters of the Area 7 Closure. The Area 7 Closure consists of those waters under the jurisdiction of the Commonwealth beginning where 70° 56.898' longitude intersects with the southerly shoreline of Cuttyhunk Island in Gosnold; thence in a straight line in a southeasterly direction to where it intersects with 41° 24.420' north latitude and 70° 56.628' west longitude; thence east northeasterly direction following an imaginary line that is ¼ nautical mile from the shoreline to where it intersects with 41° 30.703' north latitude and 70° 39.191' west longitude; thence in a straight line in a north northwesterly direction to where it intersects with 70° 39.310" west longitude at the southerly shoreline of Nobska Point in Falmouth; and thence in a westerly direction along the southern shoreline of the Elizabeth Islands concluding at the starting point.

(i) Area 8A - Nantucket Island North Shore - April 1<sup>st</sup> through April 30<sup>th</sup>. Except as provided at 322 CMR 4.06(2)(k), it shall be unlawful to fish with mobile gear from April 1<sup>st</sup> through April 30<sup>th</sup> within the waters of the Area 8A Closure. The Area 8A Closure beginning where 70° 2.980' longitude intersects with the northerly shoreline of Great Point on Nantucket Island; thence in a straight line in a north northeasterly direction to the nearest point where it intersects with the three nautical mile line, as described on NOAA Chart #13237, at 70° 2.124' west longitude; thence in a westerly direction along the three nautical mile line, as described on NOAA Chart #13237, to where it intersects with 70° 19.499' west longitude; thence in a straight line in a south southwesterly direction to where it intersects with 41° 21.852' north latitude and 70° 20.686' west longitude; thence in a straight line in a southeasterly direction to where it intersects with 70° 12.431" west longitude at the northerly shoreline of Eel Point on Nantucket Island; and thence in a easterly direction along the northern shoreline of Nantucket Island concluding at the starting point.

(j) Area 8B - Great Point and Nantucket Harbor - June 1<sup>st</sup> through September 15<sup>th</sup>. Except as provided at 322 CMR 4.06(2)(k), it shall be unlawful to fish with mobile gear from June 1<sup>st</sup> through September 15<sup>th</sup> within the waters of the Area 8B Closure. The Area 8B Closure beginning where 70° 2.980' longitude intersects with the northerly shoreline of Great Point on Nantucket Island; thence in a straight line in a south southwesterly direction to where it intersects 41° 19.060' north latitude and 70° 6.313' west longitude; thence due south to where it intersects with the northern shoreline at the western end of the entrance to Nantucket Harbor; and thence in a easterly direction along the northern shoreline of Nantucket Island concluding at the starting point.

(k) General Exemptions to Seasonal Mobile Gear Closures. The following exemptions shall apply to the seasonal mobile gear closures set forth at 322 CMR 4.06(2)(a) through (j):

1. Purse Seine Exemption. A vessel fishing under the authority of a Coastal Access Permit - Purse Seine regulated fishery permit endorsement, issued in accordance with 322 CMR 7.01(4)(a), may fish with purse seine gear within the seasonal mobile gear closures.

2. Inshore Net. A vessel fishing in the inshore net areas, as described at 322 CMR 4.02, under the authority of an Inshore Net Fishery regulated fishery permit endorsement issued in accordance with 322 CMR 4.02(3) and 7.01(4)(a), may fish with purse seine gear inside the seasonal mobile gear closures if so authorized by the conditions set forth in said Inshore Net Permit, adopted pursuant to 322 CMR 7.01(7).

3. Surf Clam and Ocean Quahog Dredges. A vessel fishing under the authority of a Surf Clam and Ocean Quahog Dredge regulated fishery permit endorsement, issued in accordance 322 CMR 7.01(4)(a), may fish with surf clam and ocean quahog dredges within the seasonal mobile gear closures areas in accordance with 322 CMR 6.08.

4. Bay Quahog Dredge Fishery. A vessel fishing under the authority of a Bay Quahog Dredge regulated fishery permit endorsement, issued in accordance with 322 CMR 7.01(4)(a), may fish with bay quahog dredges within the seasonal mobile gear closures in accordance with 322 CMR 6.36. As bay quahogs are jointly managed by municipalities pursuant to M.G.L. c. 130 § 52 and the seasonal mobile gear closures may overlap with municipal waters the harvest of bay quahogs within these municipal waters may also be subject to municipal permitting requirements and harvest regulations.

## 4.06: continued

5. Municipal Shellfish Fisheries. The seasonal mobile gear closure areas shall not apply to vessels fishing within municipal waters in a shellfish fishery regulated by the municipality.

(3) Night Closures. Within the waters under the jurisdiction of the Commonwealth, it shall be unlawful for any vessel using mobile gear to conduct any night fishing.

(4) Trawl Gear General Provisions.

(a) Minimum Trawl Net Mesh Size and Method of Measurement. Except as authorized at 322 CMR 4.06(5), all vessels fishing with trawl gear within the waters under the jurisdiction of the Commonwealth shall only possess fish taken with nets that have a minimum mesh size opening that measures at least 6 ½ inches throughout the cod end and six inches throughout the remainder of the net.

The mesh size shall be measured by the inside stretch of the net. The mesh size will be determined by the average of measurements of any series of 20 consecutive meshes. The mesh in the cod end will be measured at least ten meshes from the lacings beginning at the after end and running parallel to the long axis.

This minimum net mesh size is measured in accordance with 322 CMR 4.06(4)(a), by using a wedge-shaped gauge having a taper of two centimeters (0.79 inches) in eight centimeters (3.15 inches), and a thickness of 2.33 millimeters (0.09 inches), inserted into the meshes under a pressure or pull of eight kilograms (17.64 pounds).

(b) Trawl Net Modifications.

1. It shall be unlawful to use any device or material including, but not limited to, nets, net strengtheners, ropes, lines or chafing gear on the top of the trawl net, except that one splitting strap and one bull rope (if present), consisting of line and rope no more than three inches in diameter, may be used if such a splitting strap or bull rope does not constrict in any manner the size of the meshes on the top of the trawl net, as required at 322 CMR 4.06(4)(a).

2. All trawl nets not made on a braiding machine, whether of braided or twisted twine, whether machine made or hand-made, shall use only one knot: the weavers knot. This shall include the sheet bend or knot by another name that is the weavers knot.

3. The ends of the twine, called the bars, that exit the knot are constructed so their lay does not cross or twist.

4. One splitting strap or one bull rope consisting of line or rope no more than two inches in diameter may be used if such splitting strap or bull rope does not obstruct the meshes of the net or otherwise diminish the sizes of the net mesh.

5. Canvas, netting or other material may be attached to the underside of the cod end to reduce wear and prevent damage provided that no more than 25% of the meshes in the cod end are obstructed.

6. It shall be unlawful to use trawl nets that utilize disks, rollers or rock-hoppers greater than 12 inches.

(5) Exempted Small Mesh Trawl Fisheries. To authorize commercial trawl fishermen to seasonally target valuable finfish species that cannot be caught in commercially viable quantities without the use of small mesh trawls, the following exemptions to 322 CMR 4.06(4) apply.

(a) Small Mesh Trawl Squid Fishery. It shall be lawful to fish with small mesh trawls for squid in accordance with the following requirements:

1. Permitting. The vessel holds a Coastal Access Permit further endorsed for Small Mesh Trawl Squid, issued in accordance with M.G.L. c. 130, § 80, and 322 CMR 7.01(4)(a): *Regulated Fishery Permit Endorsement*.

2. Season. The vessel is fishing within the Small Mesh Squid Trawl Exempted Area during the period of April 23<sup>rd</sup> through June 9<sup>th</sup>. The Director may issue permit conditions to extend the small mesh trawl squid fishery season in accordance with M.G.L. c. 130, § 80, and 322 CMR 7.01(7): *Conditions*.

3. Net Mesh Size and Method of Measurement. The vessel uses small mesh trawls with meshes measuring at least 1⅞-inch diamond or square throughout the cod end.

## 4.06: continued

This standard shall be applied throughout the cod end for at least 150 continuous meshes forward of the terminus of the net. For cod ends with less than 150 meshes forward of the terminus of the net, this minimum mesh size shall be applied to a minimum of  $\frac{1}{3}$  of the net measured from the terminus of the cod end to the head rope. Meshes shall be measured using a wedge-shaped gauge having a taper of two centimeters (0.79 inches) in eight centimeters (3.15 inches), and a thickness of 2.33 millimeters (0.09 inches), inserted into the meshes under a pressure or pull of five kilograms (11.02 pounds).

4. Modifications to Strengthen the Net. The vessel shall not use any device, gear or material applied to the top of the trawl net, except the following:

- a. Splitting straps and or bull ropes or wire around the entire circumference of the cod end, provided these materials do not obstruct or constrict the top of the trawl net while it is being towed.
- b. Net strengtheners or net covers that do not have a mesh opening of at least five inches diamond or square, as measured by the methods described at 322 CMR 4.06(4)(a).
- c. A line may be used to close the opening created by the rings in the aftermost portion of the net, provided the liner extends no more than ten meshes forward of the aftermost portion of the net, the inside webbing of the cod end shall be the same circumference or less than any strengthener and the liner is no more than two feet longer than any net strengthener.

5. Catch Restrictions. Vessels fishing with or in possession of any net that does not comply with the minimum trawl net mesh size at 322 CMR 4.06(4)(a) are prohibited from retaining, possessing or landing more than 100 pounds of winter flounder, yellowtail flounder or summer flounder, in any combination.

(b) Area 1A and Upper Cape Cod Raised Foot Rope Trawl Fisheries for Whiting Fishery. It shall be lawful to fish with small mesh raised footrope trawls for whiting in accordance with the following requirements:

1. Permitting.

- a. Area 1A Exempted Whiting Fishery. The vessel holds a Coastal Access Permit further endorsed for Small Mesh Trawl Whiting and North Shore Mobile Gear, issued in accordance with M.G.L. c. 130, § 80, and 322 CMR 7.01(4)(a).
- b. Upper Cape Cod Whiting Fishery. The vessel holds a Coastal Access Permit further endorsed for Small Mesh Trawl Whiting, issued in accordance with M.G.L. c. 130, § 80, and 322 CMR 7.01(4)(a).

2. Season.

- a. Area 1A. The vessel is fishing within Area 1A, as described at 322 CMR 4.06(2)(a)(1)(a), during the period of September 1<sup>st</sup> through September 30<sup>th</sup>.
- b. Upper Cape Cod. The vessel is fishing within the Upper Cape Cod Whiting Area during the period of September 1<sup>st</sup> through November 20<sup>th</sup>.

3. Trawl Specifications. The trawl used by the vessel shall conform to the gear specifications below:

- a. Minimum Net Mesh Size and Method of Measurement. The net meshes shall measure at least 2  $\frac{1}{2}$ -inch diamond or square throughout the cod end. Minimum mesh size is measured by the inside stretch of the net. Meshes shall be measured using a wedge-shaped gauge having a taper of two centimeters (0.79 inches) in eight centimeters (3.15 inches), and a thickness of 2.33 millimeters (0.09 inches), inserted into the meshes under a pressure or pull of five kilograms (11.02 pounds).
- b. Headrope. The trawl shall be configured with a headrope that conforms to the following requirements:
  - i. The headrope is rigged with floats that measure at least eight inches in diameter.
  - ii. The floats are attached along the entire length of the headrope with a maximum spacing of four feet between each float.
- c. Groundgear. The trawl shall be configured with groundgear that conforms to the following requirements:
  - i. All bare wire groundgear that is not larger than  $\frac{1}{2}$  inch in diameter for the top leg,  $\frac{5}{8}$  inch in diameter for the bottom leg and not larger than  $\frac{3}{4}$  inch diameter for the ground cables.

## 4.06: continued

- ii. The top legs shall be at least as long as the bottom legs.
    - iii. The total length of ground cables shall not be greater than 40 fathoms (240 feet) from the trawl doors to the wing ends.
  - d. Footrope. The trawl shall be configured with a footrope that conforms to the following requirements:
    - i. The footrope is longer than the headrope, but by no more than 20 feet longer than the headrope.
    - ii. The footrope is rigged so it does not touch the ocean floor when towed.
  - e. Drop Chains. The trawl shall be configured with drop chains that conform to the following requirements:
    - i. The drop chains are at least 42 inches in length.
    - ii. The maximum size of the drop chain stock shall be  $\frac{5}{16}$  inch when a sweep is used and  $\frac{3}{8}$  inch when no sweep is used.
    - iii. Only bare chain shall be used. The use of additional weights on the drop chains is prohibited.
    - iv. Drop chains shall be hung from the center of the footrope and the corners (the junction of the bottom wing to the belly at the foot rope).
    - v. Drop chains shall be hung at eight-foot intervals along the footrope from the corners to the wing ends.
  - f. Sweep Specifications. The use of a chain sweep is not required. However, if a chain sweep is used it must conform to the following requirements.
    - i. The sweep shall be bare chain measuring no greater than  $\frac{5}{16}$  inch chain stock.
    - ii. The sweep shall be the same length as the foot rope.
    - iii. The sweep shall be attached to the ends of the drop chains and the center of the sweep must be attached to the drop chain from the center of the footrope.
    - iv. The points where each drop chain is attached on the sweep and the foot rope must be the same distance from the center drop chain attachments.
    - v. The ends of the sweeps shall be attached to the drop chains at the center of the footrope.
  - 4. Bycatch Restrictions. The vessel does not retain, possess or land any cod, haddock, pollock, redfish, white hake, yellowtail flounder, winter flounder, American plaice, witch flounder, summer flounder, skates, monkfish, ocean pout, sculpin, sea raven, lobsters or crabs.
- (6) Sea Scallop Dredge Gear.
- (a) Dredge Width. It shall be unlawful to possess a sea scallop dredge or retain sea scallops caught by a dredge whereby the dredge or a combination of dredges has an effective fishing width greater than ten feet while fishing within the waters under the jurisdiction of the Commonwealth.
  - (b) Dredge Rings.
    - 1. Minimum Size. It shall be unlawful to possess a sea scallop dredge or retain sea scallops caught by a dredge with rings less than four inches.
    - 2. Method of Measurement. The minimum ring size 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. The measurement shall not include normal welds from ring manufacturing or links. The rings to be measured shall be at least five rings away from the mouth of the dredge and at least two rings away from the other rigid portions of the dredge.
  - (c) Twine Top.
    - 1. Minimum Twine Top Net Mesh Size. It shall be unlawful to possess a sea scallop dredge or retain sea scallops caught by a dredge using twine top with a net mesh of less than ten inches square or diamond.
    - 2. Twine Top Configuration. It shall be unlawful to configure or construct the twine top in any manner that obstructs the net mesh so that it is less than ten inches square or diamond.
- (7) Use of Purse Seines.
- (a) Permitting Requirements.

## 4.06: continued

1. Use of Purse Seine Gear within Inshore Restricted Waters. Pursuant to 322 CMR 4.02 and 7.01(4), an Inshore Net Permit regulated fishery permit endorsement is required for any commercial fisher to set, fish, or haul a purse seine within inshore restricted waters defined at 322 CMR 4.02.
2. Use of Purse Seine Gear Seaward of Inshore Restricted Waters. Pursuant to 322 CMR 7.01(4), a Coastal Access Permit or Coastal Access Permit Purse Seine is required for any commercial fisher to set, fish, or haul a purse seine within waters under the jurisdiction of the Commonwealth seaward of inshore restricted waters defined at 322 CMR 4.02.
- (b) Restrictions on Use of Purse Seine Gear.
  1. Waters under the Jurisdiction of the Commonwealth. It shall be unlawful to set, fish, or haul a purse seine within waters under the jurisdiction of the Commonwealth:
    - a. On Saturdays, Sundays, Memorial Day, the 4<sup>th</sup> of July, and Labor Day.
    - b. From ½ hour after sunset to ½ hour before sunrise during the period of March 1<sup>st</sup> through October 31<sup>st</sup> or from 6:00 P.M. to 6:00 A.M. during the period of November 1<sup>st</sup> through the last day of February.
    - c. within the waters of Cape Cod Bay shoreward of an imaginary straight line drawn from western breakwater at Sesuit Harbor in Dennis, thence in a northerly direction to the #1 buoy on Billingsgate Shoal, thence in a northeasterly direction to the southernmost tip of Jeremy Point in Wellfleet.
  2. Within Inshore Restricted Waters. Within the inshore restricted waters defined at 322 CMR 4.02, it shall be unlawful to set, fish, or haul a purse seine:
    - a. year-round within the waters of Buzzards Bay, as defined at 322 CMR 4.02.
    - b. on Fridays within the waters of Beverly Harbor, as defined at 322 CMR 4.02.
  3. Within Boston Harbor. Within the inshore restricted waters of Boston Harbor, as defined at 322 CMR 4.02, it shall be unlawful to set, fish, or haul a purse seine:
    - a. within the waters of the Charles River upstream of an imaginary straight line drawn from Pier 4 in Charlestown to the easternmost Coast Guard Pier in Boston.
    - b. within the waters of the Mystic River upstream of an imaginary straight line drawn from the end of the Massport concrete pier to the white storage tanks at the Exxon Terminal.
    - c. within the waters of the Chelsea River upstream of the Andrew McCardle Bridge.
    - d. within the waters of Dorchester Bay shoreward of an imaginary straight line drawn from UMASS Boston to the Corita Gas Tank.
    - e. within the waters of the Neponset River upstream of the Southeast Expressway.
    - f. within the waters of Marina Bay in Quincy shoreward of the breakwater.
    - g. within the waters of the Weir River upstream of Red Nun "8".
    - h. within the waters of Winthrop Harbor shoreward of an imaginary straight line beginning at the southern end of Cottage Park Yacht Club in Winthrop south to the "1" day marker and then east to Coughlin Park, Winthrop.
    - i. within any area designated as an "A Anchorage Area" described on NOAA Chart #13270

Exception: A commercial fisher may fish with purse seines within the "Anchorage Area A" on NOAA Chart #13270 off Merrymount in Quincy.
  4. Permit Conditions. Pursuant to the authority at M.G.L. c. 130, § 80 and 322 CMR 7.01(7), the Director may establish permit conditions affecting the use of purse seines as necessary and appropriate for purposes of conservation and management or to protect the public health, welfare and safety.

(8) Experimental Fisheries. The Director may, at their discretion, authorize the use of nonconforming mobile gear. This will be done to collect data to determine if certain gear modifications may be appropriate. Permit holders must request and obtain a Letter of Authorization to participate in any authorized experimental fishery.

(9) Declaration of Temporary Mobile Gear Closures. The Director may declare temporary mobile gear closures within the waters under the jurisdiction of the Commonwealth, if the Director has determined that the closure is necessary to immediately resolve gear conflicts due to high densities of fixed fishing gear or to protect high densities of molted lobsters.

- (a) Procedure for Declaring Temporary Mobile Gear Closures. The declaration of a temporary closure is not effective until:

4.06: continued

1. It has been approved by a majority of the Marine Fisheries Advisory Commission.
2. A notice of closure has been filed with the *Massachusetts Register* and published or posted in conspicuous places accessible to fishers. The notice of closure must state:
  - a. a determination of need or basis for the closure;
  - b. the exact area to be closed; and
  - c. the duration during which the closure will be in effect.
3. During the temporary closure the Director shall consider comments on the closure by the public or a state or federal agency. Based on these written comments the Director may alter, amend or rescind the closure in accordance with this procedure.

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

(11) Prohibitions. It shall be unlawful:

- (a) to violate any provision of 322 CMR 4.06;
- (b) for any vessel or person to molest, damage, destroy, cut or deface any fixed and stable fishing gear;
- (c) for any vessel or person to possess any ghost gear without proper written authorization of the owner;
- (d) for any vessel to retain, possess or land any lobsters harvested by mobile gear within the waters under the jurisdiction of the Commonwealth.
- (e) to use in any manner any mobile fishing gear in or possess any fish, including finfish, shellfish or crustaceans, harvested from an area which has been closed pursuant to 322 CMR 4.06(9).

(4.08: Fishing and Shellfish Equipment: (Reserved))

4.09: Restrictions on Hook and Line Gear

(1) Use of Natural Bait with Embedded or Attached Weights. It shall be unlawful for any person to fish with natural bait that has been rigged with embedded or attached weights or other materials, unless such weights or other materials are attached to the end of the fishing line.

(2) Prohibition on Mechanized Deployment of Baits. It shall be unlawful for any person fishing from the shoreline, including wade fishing, or fishing from any structure attached to the shoreline, including but not limited to bridges, jetties, piers, and docks with rod and reel gear to deploy baited hooks using any motorized, compressed propulsion, or remote-controlled device.

4.11: Marking of Dive Gear

(1) Dive Fishing for Lobsters. Any person authorized to take lobster by dive gear, 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 mark a floating marker, described at M.G.L. c. 130, § 38A so as to display the permit number assigned by the Director. The permit numbers shall be not less than three inches in height nor less than ½ inch in thickness or width of line.

(2) Marking of SCUBA Air Tanks. Any person authorized to take lobster by dive gear, 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*, that is using SCUBA gear shall mark the air tank(s) of the diver to display the permit number assigned by the Director. The permit numbers shall be not less than three inches in height nor less than ½ inch in thickness or width of line.

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.

## 4.12: continued

(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 of 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: 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.

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 2½ inch in diameter, two inches square or 1⅜ inch by 5¾ inch, 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.

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.

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 3<sup>1</sup>/<sub>10</sub> inch in diameter or 2¼ 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.

## 4.13: continued

(2) Buoy and Trap Marking.

(a) All buoys set by commercial trap fishers permitted in accordance with M.G.L. c. 130, §§ 37, 38 or 80, and 322 CMR 7.01(2): *Commercial Fishing Permits* or 322 CMR 7.01(4): *Special Permits*, shall be marked with the permit number assigned by the Director. Buoy markings shall not be less than one inch in height nor less than ½ inch in thickness or width of the line.

(b) All traps or cars set by commercial fishers permitted in accordance with M.G.L. c. 130, §§ 37, 38 or 80, and 322 CMR 7.01(2): *Commercial Fishing Permits* or 322 CMR 7.04(4): *Special Permits*, shall be marked with trap tags in accordance with 322 CMR 6.31: *Trap Tags*.

(c) All buoys set by non-commercial lobster and crab trap fishers, 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. Buoy markings shall not be less than one inch in height nor less than ½ inch in thickness or width of the line.

(3) Surface Identification of Traps.

(a) 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.

(b) 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 with a three-foot stick and a flag.

(c) 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 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 single buoy seven inches by seven inches or five inches by 11 inches shall mark the other end of the trawl. Sticks need not be used.

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

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 which 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 inch 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.

4.14: continued

- (4) Mesh Size Openings. It shall be unlawful to fish with a surface gillnet with mesh openings larger than  $3\frac{3}{4}$  inches or smaller than  $1\frac{7}{8}$  inches.
- (5) Area and Season Closures.
- (a) In addition to area and season closures in 322 CMR 4.09(2) and 322 CMR 12.04(1): *Gillnet Closures in Right Whale Critical Habitat and Cape Cod Bay*, it is unlawful to fish surface gillnets year-round in Buzzards Bay.
- (b) Southern New England Inshore Restricted Waters January 1<sup>st</sup> through May 15<sup>th</sup> Seasonal Closure. During January through May 15<sup>th</sup>, 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 the Pleasant Bay and Nauset Harbor, including all connecting embayments.
- (c) Gulf of Maine Inshore Restricted Waters January 1<sup>st</sup> through May 31<sup>st</sup> Seasonal Closure. During January through May 31<sup>st</sup>, 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.
- (2) Permit. A person may, without a special permit, use a cast net for purposes of taking bait.
- (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).