



The Commonwealth of Massachusetts
Division of Marine Fisheries

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Maura T. Healey
Governor

Kimberly Driscoll
Lt. Governor

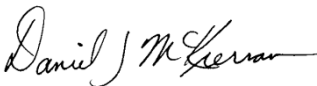
Rebecca L. Tepper
Secretary

Thomas K. O'Shea
Commissioner

Daniel J. McKiernan
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director 

DATE: May 23, 2025

SUBJECT: **Proposal to Establish Framework to Permit and Manage the Clean-Up of Fishing Gear Debris**

Proposal

DMF is proposing to go out to public hearing later this year with a permitting and management framework to allow for the clean-up of fishing gear debris.

The first aspect of this proposal would be to define “intact” commercial and recreational trap and pot gear. Intact is a term used the recent amendments at G.L. c. 130, §§1 and 31 to differentiate between fishing gear¹ and fishing gear debris². The term is not further defined in statute, and therefore, DMF proposes the following definition be adopted in regulation:

1. “Intact commercial trap and pot gear” means any trap or pot that has at least three of the following elements: (a) buoyed as required at 322 CMR 4.13; (b) compliant with all buoy line marking and modification requirements rules at 322 CMR 12.06; (c) possessing current years’ trap tags as required at 322 CMR 6.31; and (d) having the trap configured as required at 322 CMR 6.02 (e.g., escape vents, ghost panels).
2. “Intact recreational trap and pot gear” means any trap or pot that has at least three of the following elements: (a) buoyed as required at 322 CMR 4.13; (b) compliant with all buoy line marking and modification requirements rules at 322 CMR 12.06; (c) a synthetic plate or wooden lath present on or in the trap bearing the identifiers established at 322 CMR 4.13; and (d) having the trap configured as required at 322 CMR 6.02 (e.g., escape vents, ghost panels).

¹ Fishing gear means a trap, net, fish car, or other contrivance that is intact; functions as it is intended to take, hold, or capture fish; and is in the water during the open season.

² Fishing gear debris means a trap, net, fish car, or other contrivance that is: not intact; does not function as intended to take, hold, or capture fish; or is in the water during a closed season.

In the case of buoyless trap gear fished from the shoreline the gear only needs to meet the last two requirements (c and d).

DMF then proposes the following framework to permit and regulate the clean-up of fishing gear debris from the state's shorelines and the waters under the jurisdiction of the Commonwealth:

1. Provide a blanket year-round authorization to any person or organization to remove and dispose of fishing gear debris found on the shoreline.
2. Authorize DMF and the Massachusetts Environmental Police (MEP) to remove and dispose of fishing gear debris found in the water.
3. Allow proponents to apply for a Special Project Permit to authorize the removal and disposal of fishing gear debris found in the water. Applications will require proponents submit a detailed scope of work. Authorizations will be granted at the discretion of DMF with each application being evaluated based on: (a) expertise of the applicant; (b) likelihood of success; and (c) ability to avoid gear and user group conflicts. Proposals that would occur during seasons closed to fixed gear fishing would be given priority.
4. Allow mobile gear vessels operating in state waters to bring ashore and dispose of fishing gear debris obtained incidental to their fishing operation. The molesting of fixed fishing gear will remain strictly prohibited.

DMF intends to take public comment on best practices for the handling of fishing gear debris.

1. While it will not be mandatory to return the fishing gear debris to its prior owner, the practice will be encouraged in instances when the fishing gear debris is mostly intact, identifiable, and potentially salvageable.
2. Fishing gear debris shall be disposed of lawfully. In instances when the fishing gear debris is salvageable it may be repurposed or resold.
3. There is a significant need to create a network to accommodate the disposal of fishing gear debris. This includes funding gear dumpsters at ports, working with municipalities to accommodate disposal (e.g., transfer stations), and connecting clean-up efforts with entities capable of disposing of or salvaging the fishing gear debris.

It is worth noting that under this legal framework lost, abandoned, or derelict shellfish aquaculture gear is not considered fishing gear. As the municipality is the principal authority that licenses shellfish aquaculture under G.L. c. 130, § 57, DMF intends to defer to local management to address how best to clean up this gear. However, to enhance local management DMF proposes the following baseline regulatory requirements:

1. Should lost, abandoned, or derelict aquaculture gear be encountered, the person encountering the gear should contact the local shellfish constables and notify them of its presence.
2. All aquaculture gear should be tagged or marked with information identifiable to the permit holder. Municipalities may then further regulate how tagging and marking should occur.

Background

In 2022, I established a Derelict Gear Task force to study the problems related to the removal and disposal of abandoned, lost, and derelict fishing gear (ALDFG) in Massachusetts and develop a framework that would enhance gear clean up. This Task Force was chaired by Deputy Director Bob Glenn and included Jared Silva, David Chosid, and Julia Kaplan from DMF; Lt. Col. Chris Baker of the Environmental Police; Tori LaBate, Deputy General Counsel from the Department of Fish and

Game; Ray Kane and Sooky Sawyer from the MFAC; Beth Casoni from the Massachusetts Lobstermen's Association; and Laura Ludwig from the Provincetown Center for Coastal Studies.

In 2023, this Task Force released a [white paper](#) documenting its findings. The Task Force concluded: (1) ALDFG presents a serious challenge to fishers, waterfront property owners, municipalities, and the marine environment; (2) efforts to clean up ALDFG in Massachusetts are stymied by outdated state law which affords property rights to fishing gear even if derelict and washed ashore; and (3) to enhance clean up, state law needs to be amended to differentiate between fishing gear and fishing gear debris with property rights afforded to the former, but not the latter. To this last point, the white paper included potential statutory amendments to G.L. c. 130, §§1, 31, and 31 and the document was submitted to the Massachusetts Legislature's Coastal Caucus.

The Coastal Caucus championed the cause and membership sponsored legislation. This legislation was signed into state law by Governor Healy in late 2024. The new law defines both fishing gear and fishing gear debris. Effectively, to be fishing gear it must be intact, functioning as intended, and being lawfully fished during an open season—if one of these criteria are not met then it is fishing gear debris. The gear owner's property rights remain for fishing gear, as opposed to fishing gear debris, and DMF is then given the authority to regulate and permit the removal of fishing gear debris from our marine waters and coasts with approval of the MFAC and the Commissioner of Fish and Game.

Rationale

With this new law going into effect this year, DMF has worked to develop the above-described regulatory framework to permit and manage the clean-up and disposal of fishing gear debris. The development of this framework has relied heavily on DMF's recent experience removing gear from the seasonal trap gear closure as well as informal input from stakeholders and industry members. The framework attempts to find a balance that enables a diversity of clean-up efforts while ensuring fishing gear is afforded private property rights and protected from theft and molestation.

Definition of Intact

Given the definition of fishing gear and fishing gear debris, the need to further define "intact" is limited only to the context of trap and pot gear. Effectively, any net gear that is not intact will also not be functioning as intended, and by definition, will be fishing gear debris. Following the model used in other states (e.g., Florida), DMF is proposing to define "intact" based on the gear maintaining three of the four regulatory required elements (buoy, buoy lines, trap tag/trap identification, escape vents and ghost panels). This ensures that trap and pot gear found in the water during an open season will be afforded property rights unless missing two of the elements necessary to be considered intact. This enables some gear to simply be non-compliant without necessarily surrendering its property rights.

Permitting and Management Framework

Given the prevalence of plastic-coated wire trap and pot gear, most of the fishing gear debris that is deposited on our shorelines by storms is badly damaged and unfishable and the prior owners do not want the gear back. Therefore, broad deference should be granted to individuals who want to clean up the coasts. For these reasons, I am proposing a blanket authorization to all shoreline clean-up efforts occurring upland from the mean low tide water mark. This would include gear encountered by private citizens on their property, as well as local, state, and federal officials on their properties.

DMF and MEP will be authorized to remove and dispose of fishing gear debris found in the water. This will accommodate the annual work to remove buoyed gear from the seasonal trap gear closure. Additionally, it will provide opportunities to remove fishing gear debris during the routine operations

of both agencies. This enables the disposal of fishing gear debris without having to seize it, store it, or return it to its owner. In the event that the fishing gear debris observed is also non-compliant, gear could be secured by MEP for enforcement purposes.

Clean-up efforts occurring seaward from the mean-low tide water mark will need to be permitted by DMF. Proponents will be required to submit an application and project description that details how the clean-up effort will be conducted. DMF will evaluate these applications on a project-to-project basis. Permits will be issued at the agency's discretion with preference to projects that occur during closed seasons. This may include the use of side-scan sonar to identify fishing gear debris and the use of grappling or mobile gear to haul it up. Projects intended to occur during open seasons will need to clearly demonstrate how they intend to differentiate fishing gear from fishing gear debris and avoid conflicts with fishing gear. All permitted projects will likely require MEP be contacted if the fishing gear debris encountered is also obviously non-compliant (e.g., gear being actively fished during a closed period).

Lastly, DMF seeks to allow mobile gear fishers to retain, bring ashore, and dispose of fishing gear debris they encounter within the routine course of their fishing operations in state waters only. Historically, it has been commonplace for mobile gear fishers to deal with this in one of several ways: (1) dropped back into the ocean at a discrete location where fishing effort is limited to prevent future snags; (2) returned to the owner if identifiable and salvageable; and (3) thrown out at shore, particularly if only remnants of gear. In the interest of removing fishing gear debris from the water, DMF wants to establish a clear allowance that favors disposal³. However, there is a tension between mobile and fixed gear fishers given the long history of gear and user group conflicts and competition over fishable bottom. Being sensitive to this, staff held a meeting in Scituate on May 8 with a small group of trap and mobile gear fishers to discuss the challenge. It was generally felt that such an accommodation would be reasonable, provided that fishing gear molestation rules remain strictly enforced. There was limited concern from either sector that such an allowance would be misused to intentionally tow through fixed gear to open up towable lanes given. However, this was largely attributable to the current composition of the state waters mobile gear fleet.

³ DMF understands that mobile gear fishers may want to avoid doing this given fisherman safety concerns as well as impacts to operational efficiency. Absent a willingness to handle and dispose of fishing gear debris, DMF would encourage mobile gear fishers to inform DMF of where gear is commonly discarded and these areas can be prioritized for clean up through other means.

Best Practices for Clean-Up Efforts

In creating this new framework, it is also responsible for DMF to guide clean-up efforts through the development of best practices. This will be an iterative process that results in a living document where amendments and adjustments can be made over time as we respond to new and unforeseen challenges. However, there are certain baseline practices that I believe can be addressed at the outset.

While the law no longer makes it mandatory to try and return the fishing gear debris to its prior owner, this should be practiced in instances where the fishing gear debris found is potentially fishable and identifiable. When potentially fishable fishing gear debris is encountered, clean-up operations should look for identifying markers (e.g., name plate, trap tags, buoy) and contact DMF for that permit holder's contact information. An effort should then be made to provide the fisher with a reasonable opportunity to retrieve the gear.

All clean-up programs need to have a lawful means of disposing of the gear. DMF recognizes that this is probably the most significant logistical constraint on clean-up efforts. To address this, there needs to be a collective effort (state authorities and elected officials; industry members, representatives, and organizations; municipalities and port authorities; and NGOs and other clean-up proponents) to develop a network to accommodate this waste disposal. This includes funding gear dumpsters at ports, working with municipalities on disposal issues, and connecting entities capable of disposing of or salvaging the fishing gear debris with those interested in doing the clean-up work. This will obviously be an iterative process, but DMF will dedicate staff resources to help spearhead this initiative. To encourage disposal, DMF also will not restrict the salvage, repurposing, or resale of fishing gear debris.

Abandoned, Derelict, and Lost Aquaculture Gear

Throughout the process of developing this framework, the focus was on how best to address trap gear debris, as it represents a preponderance of the debris that exists around our coast. However, DMF also considered to what extent DMF needed to address abandoned, derelict, and lost aquaculture gear.

While there may be some similarities, the handling of aquaculture-related gear would be more complicated for several reasons. Shellfish aquaculture (which represents nearly all of the coastal aquaculture in the state) is subject to "home rule" and municipal permitting and management requirements. There is also an additional layer of property consideration given the product contained within the gear was purchased, reared, and owned by aquaculturists.

Accordingly, DMF met with several municipal shellfish constables and members of the aquaculture industry, including MFAC Vice-Chair Bill Doyle. There was general agreement that the handling of abandoned, derelict, and lost aquaculture gear should continue to occur at the municipal level under the oversight of the shellfish constable. The constables have a great understanding of their local aquaculture industry and are well positioned to manage how best to handle these situations locally. Moreover, many towns have existing requirements to address the clean-up associated with derelict or abandoned aquaculture gear. Throughout the course of this conversation, it was determined that DMF could use its general aquaculture management authority to create a state-wide baseline mandate that aquaculture gear must be tagged or marked to identify the permit holder. The municipal authority could then further regulate to describe how this should occur based on the details of their local industry. In response to these consensus positions, DMF then developed the above-described proposals affecting aquaculture gear, which were presented to broad support at the Massachusetts Aquaculture Association's 2025 Annual Meeting.

