

STATE DERELICT FISHING GEAR LAWS AND REGULATIONS

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In 2015, the National Sea Grant Law Center at the University of Mississippi School of Law received a grant award from the National Fish and Wildlife Foundation's Fishing for Energy Partnership to help New England managers to assess the feasibility of implementing innovative derelict fishing gear removal strategies in their states. Lost nets and other heavy fishing equipment can damage ecosystems as they are moved by tides and waves along the sea floor, as well as impact navigational safety, damage active fishing equipment and boats, and cause economic repercussions for coastal industries and communities across the country. The laws and regulations governing the removal of derelict fishing gear vary by fishery and state. To assess the feasibility of implementing innovative removal strategies in their states, New England managers need a better understanding of the current legal framework governing derelict fishing gear removal and how existing state marine debris programs are authorized.

As a first step towards increasing awareness and improving understanding of state derelict fishing gear laws and regulation, the NSGLC compiled the relevant laws and regulations related to derelict fishing gear for eleven priority states as identified by NFWF (Washington, California, Maine Massachusetts, New Hampshire, Maryland, Virginia, Florida, Alabama, Connecticut, and Rhode Island). Relevant statutory and regulatory provisions were identified through traditional legal research methods. Each state compilation was sent to appropriate state agency contacts for review and feedback.

For the priority states, the NSGLC analyzed the compiled laws and regulations to address several key management questions identified by the project Advisory Committee convened in January 2016. Committee members include: Sarah Cotnoir, Maine Department of Marine Resources; Dan McKiernan, Massachusetts Department of Energy and Environmental Affairs; Cheri Patterson, New Hampshire Fish and Game Department; Daniel Costa, Rhode Island Department of Environmental Management; Rachel Keylon and Keith Cialino, NOAA Marine Debris Program. For each state, the NSGLC addressed the following: state definitions for derelict fishing gear; requirements for marking gear and attending gear; prohibitions on "molesting" gear; requirements or authorizations to remove gear; closed periods for gear removal; and, other relevant definitions for derelict or abandoned property. Draft summaries were also sent to each state for review and comment.

In addition to identifying the priority management questions, the Committee also identified model removal programs and strategies that could potentially be used by New England states. The NSGLC drafted legal cases studies of these six programs to gain a solid understanding of how they operate and provide a foundation for assessing their transferability to the New England region. Each short (2-3 page) narrative case study details how the program was authorized, responsible entity, and regulatory and permitting requirements.

The case studies are included as Appendix A and state summaries as Appendix B.

The final compilation, organized by state, is available at

<https://www.dropbox.com/s/n1471e1en0yg1pa/DFG%20Master%20Compilation.docx?dl=0>

APPENDIX A

**CASE STUDY:
FLORIDA’S SPINY LOBSTER, STONE CRAB, AND BLUE CRAB
TRAP RETRIEVAL PROGRAM**

Overview:

In Florida, accumulation of derelict traps presents significant hazards to the marine environment. Florida’s Spiny Lobster, Stone Crab, and Blue Crab Trap Retrieval Program enables the Florida Fish and Wildlife Commission (FWC) to contract with commercial fishermen to remove traps from state waters during closed seasons.

DFG Problem:

Derelict traps in Florida waters pose a significant problem. In the Florida Keys National Marine Sanctuary alone, one scientific study surveying lobster trap debris found that over 85,000 ghost traps (traps that are lost but continue to catch marine animals) and over 1 million non-fishing traps or trap remnants were left in the study area. These traps are long-lasting marine debris that present a significant threat to people and to the marine environment.

As in most states, removing the derelict traps is not simple. In Florida, it is unlawful for anyone to tamper with traps and associated gear. (FLA. STAT. §§ 379.365, 379.367). A violation can result in fines of up to \$5,000 and the permanent revocation of fishing privileges. Authorized government entities and volunteer groups are permitted by Florida law to participate in coastal cleanups, as long as they comply with the requirements in FLA. ADMIN. CODE ANN. r. 68B-55. In order to amplify removal efforts, the FWC’s Spiny Lobster, Stone Crab and Blue Crab Trap Retrieval Program authorizes commercial fishermen, who know the local area and own trap-pulling vessels, to remove traps from state waters during closed seasons.

Responsible Entity:

Florida Fish and Wildlife Commission (FWC)

Program Authorization:

FLA. STAT. § 379.2424 authorizes the FWC to implement a trap retrieval program for retrieval of spiny lobster, stone crab, and blue crab traps remaining in the water during the closed season for each species. The FWC is authorized to contract with outside agents for the program operation.

Program Implementation:

Fishery participant organizations are contracted to implement this program. Fishery participant organizations are defined as

A group of commercial fishermen all of whom possess a current saltwater products license and a blue crab, stone crab, or spiny lobster endorsement. For the purpose of participation in the retrieval of derelict traps this means participants who receive and possess written permission from each other to bring their traps into land or move them back into line, who work under law enforcement supervision to retrieve traps, or who prepare a plan for FWC authorization. (Fla. Admin. Code Ann. r. 68B-55.001)

These organizations are selected through a competitive-bid process. The vendor with the lowest bid is selected, and payment is made based on the number of traps retrieved and the number of

retrieval trips completed. A FWC observer is present onboard for each retrieval trip and is responsible for verifying the number of traps retrieved, and to record license and location data from each trap retrieved.

The trap retrieval program is funded by commercial saltwater license revenue and from retrieval fees collected. For each spiny lobster, stone crab, and blue crab commercial license issued, \$25 of the fee is allocated to the trap retrieval efforts. As a benefit, each license holder is given a retrieval fee waiver for up to 5 traps for each endorsement type held. For example, if a fisher has both a stone crab endorsement and a crawfish endorsement, then they will receive a waiver for the first 10 traps retrieved each calendar year. If a fisher holds a stone crab endorsement, a crawfish endorsement, and a blue crab endorsement, then they will receive a waiver for the first 15 traps retrieved each calendar year.

Traps that are recovered as part of this program are destroyed and disposed of. A retrieval fee of \$10 per trap is assessed to the trap owner for each trap retrieved. These fees are dedicated to the operation of the trap retrieval program. (FLA. STAT. § 379.368). Commercial licenses cannot be renewed until all retrieval fees have been paid.

Partners:

Commercial fishermen

Contacts:

Pamela Gruver, Biological Scientist IV
Division of Marine Fisheries Management
Florida Fish and Wildlife Commission
(850) 487-0554

Resources Used:

Amy V. Uhrin, Thomas R. Matthews, Cynthia Lewis, *Lobster Trap Debris in the Florida Keys National Marine Sanctuary: Distribution, Abundance, Density, and Patterns of Accumulation*, MARINE AND COASTAL FISHERIES: DYNAMICS, MANAGEMENT AND ECOSYSTEM SCIENCE, Volume 6, Issue 1 (2014).

Derelict Trap Retrieval and Debris Removal Program, FLORIDA FISH AND WILDLIFE COMMISSION, <http://myfwc.com/fishing/saltwater/trap-debris/>.

FLA. STAT. §§ 379.365, 379.367, 379.2424.

FLA. ADMIN. CODE ANN. r. 68B-55.

**CASE STUDY:
LOUISIANA’S CRAB TRAP CLOSURE PROGRAM**

Overview:

Louisiana authorizes closures to allow for the removal of derelict crab pots. During these closures, the Louisiana Wildlife and Fisheries Commission (LWFC), individual volunteers, and organizations remove any abandoned pots and deposit them at designated Louisiana Department of Wildlife and Fisheries (LDWF) disposal sites.

DFG Problem:

Crab traps were introduced in Louisiana as early as 1948 and became the dominant gear in the fishery by the mid-1960s. From the late 1970s through the present, trap landings have contributed over ninety-nine percent of total blue crab and stone crab landings in Louisiana. Large numbers of these traps are lost or abandoned each year due to a variety of reasons, such as extreme weather conditions, accidental clipping of the buoy lines by passing vessels, displacement of traps caught in shrimp gear, vandalism, and improper disposal of old traps.

Because modern crab traps consist of vinyl coated wire mesh that may take years to degrade, removal of derelict and abandoned crab traps has become especially important in Louisiana. Removal reduces unnecessary mortality of blue crabs and other marine organisms that get stuck in the unused traps. Such efforts also improve visual esthetics of state waterways and reduce navigation hazards and conflicts with other fishing gear and user groups.

Responsible Entity:

Louisiana Wildlife and Fisheries Commission (LWFC)

Program Authorization:

LA. REV. STAT. § 56:332 authorizes the LWFC to establish a program for the removal of derelict crab traps. Under LA. REV. STAT. § 56:332, LWFC may close state waters for a period of time to facilitate removal, and any crab traps found in these waters during the closed period are deemed abandoned and may be removed by anyone authorized by the LWFC.

Program Implementation:

Through regulation, the LWFC establishes the specific locations and times for closure. (*see* 76 LA. ADMIN. CODE PT VII, 367). Closures have taken place every year since 2004. In 2016, the regulations establish closures for three different areas along Louisiana’s coast. The first closure of 2016 took place from February 12-21 in the eastern portion of Lake Pontchartrain, Lake Catherine and adjacent marshes. The second took place from February 19-28 in the upper Barataria basin. The third took place from February 19-28 in Sabine Lake, located on the Texas-Louisiana border, to allow Texas Parks and Wildlife Department (TPWD) to conduct a lake cleanup.

Crab traps may be removed by anyone only between one-half hour before sunrise to one-half hour after sunset.

The program has an important volunteer component. Specified days within the closure period are announced for volunteer participation. According to LDWF, volunteers including commercial crabbers, Louisiana Sea Grant, Coastal Conservation Association – Louisiana, and the general public have helped tremendously in some of the more productive crab trap cleanup efforts over the years.

In the weeks leading up to a closure, the LDWF mails notices to all licensed recreational and commercial crab trap license holders and crab buyers within affected parishes as well as non-resident licensed crab fishermen who fish Louisiana waters and reside in Mississippi and Texas. All crab traps remaining in the closed areas during the specified period are considered abandoned. No person removing crab traps from the designated closed areas during the closure periods may possess the traps outside of the closed area. The abandoned traps are destroyed on site and taken to LDWF designated disposal sites. (*see* 76 LA. ADMIN. CODE PT VII, 367). According to LDWF, since the traps are taken from a closed area and every attempt is made to notify fishermen in that area beforehand, no other notifications are made.

Partners:

LWFC
LDWF
TPWD
Louisiana Sea Grant
CCA Louisiana

Contacts:

Jeffrey Marx
2415 Darnall Rd.
New Iberia, LA 70560
jmarx@wlf.la.gov

Resources Used:

LA. R.S. 56:332.

76 LA. ADMIN. CODE PT VII, 367.

Upcoming Derelict Crab Trap Program Closure, LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES, <http://www.wlf.louisiana.gov/fishing/derelict-crab-trap-removal>.

CASE STUDY:
MAINE’S ABANDONED AQUACULTURE GEAR REMOVAL PROGRAM

Overview:

Like derelict fishing gear, abandoned aquaculture gear can impact marine habitats and fishing vessels. To address this threat to the marine environment, Maine has long required lessees to hold a current bond or escrow account in an amount deemed sufficient to pay for gear removal if an applicant fails to do so at the end of a lease term or after revocation. More recently, Maine has enacted legislation providing a mechanism for the removal and disposal of abandoned aquaculture gear in the event a bond or escrow account unknowingly lapses.

DFG Problem:

Maine is one of the leading U.S. producers of farm-raised seafood, with approximately 110 aquaculture leases and 250 licenses. If leaseholders or licensees abandoned aquaculture gear or equipment, it could damage the marine habitat or cause navigation issues. According to the Maine Department of Marine Resources (DMR), Maine aquaculture producers generally act as responsible environmental stewards. In the event gear is abandoned, however, Maine has enacted laws and regulations that outline procedures for removing such gear.

Responsible Entity:

Maine Department of Marine Resources (DMR)

Program Authorization:

The Department of Marine Resources may remove abandoned aquaculture equipment under ME. REV. STAT. ANN. TIT. 12, § 6086.

Program Implementation:

Aquaculture gear may be presumed “abandoned” in various circumstances. First, if a lease is terminated by the applicant or revoked by DMR, the remaining equipment would be required to be removed. If an applicant fails to remove gear, the bond or escrow account would be accessed to pay for removal. If the bond or escrow account is unavailable, gear would be considered “abandoned” and subject to removal.

Aquaculture equipment is also considered abandoned if gear remains in the water after the term of the lease or license has expired. Further, if equipment remains in the area of the lease or license site, and the equipment is not legally permitted to remain by another authority, such as a municipal mooring permit, it is considered abandoned. Finally, aquaculture equipment meets the definition of abandoned if the aquaculture lease or license holder has not entered into an agreement with the DMR to accomplish timely removal of the equipment or stock.

Once the DMR has determined that there is abandoned aquaculture equipment, the DMR may begin removal or the DMR may authorize a third party to remove equipment if the DMR is satisfied that the work will be completed. (ME. REV. STAT. ANN. TIT. 12, § 6086(3)(A)-(B)). Prior to removal, the DMR must give notice to the aquaculture lease or license holder or any person who has a property interest in the equipment or stock. The lease or license holder then must respond within 15 days and remove the equipment or stock from the coastal waters within

60 days of notification by the DMR (or within 60 days of ice out if the equipment or stock is icebound). Immediate removal is authorized where the gear is a human health or safety hazard or immediate threat to the marine environment. If the persons to whom the DMR has given notice cannot be contacted or do not remove the equipment within the time period specified, the DMR may initiate removal of the equipment. (ME. REV. STAT. ANN. TIT. 12, § 6086(3)).

The DMR is authorized to sell abandoned equipment. Any proceeds from the sale must first be applied to the removal costs; however, any money that remains may be applied to any liens against the equipment or stock. The remaining money goes to the Aquaculture Management Fund. (ME. REV. STAT. ANN. TIT. 12, § 6086(3)(D)). If the State is not compensated for removal costs, the State must first attempt to recover the removal costs by claiming these expenses against the escrow account or performance bond, required to obtain a lease or license respectively. ME. REV. STAT. tit. 12, § 6072-C; CODE ME. R. tit. 13-188 Ch. 2, § 40. As a final step, the State may bring a civil action against the owner of the equipment or stock to cover any cost of removal of the equipment or stock. The court may award an additional fifty percent removal cost. The penalty is payable to the Aquaculture Management Fund.

Maine has not yet employed this removal process for abandoned aquaculture gear. According to the DMR, if gear has been left behind, aquaculture producers generally respond to the DMR's request to remove it. If producers did leave gear behind, however, these rules would facilitate removal of the gear.

Partners:

None

Contacts:

Jon Lewis
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Maine Dept. of Marine Resources
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West Boothbay
Harbor, ME 04575
Phone: 207-633-9594
Email: Jon.Lewis@Maine.Gov

Resources Used:

ME. REV. STAT. ANN. TIT. 12, § 6086.

CODE ME. R. tit. 13-188 Ch. 2, § 40

CODE ME. R. tit. 13-188 Ch. 2, § 42

**CASE STUDY:
MARYLAND’S ABANDONED BOAT AND DEBRIS PROGRAM**

Overview:

Maryland has a formal abandoned vessel program, with statutes on the designation, notification, titling requirements, and removal authority of abandoned vessels on both private and public property. In addition, the Maryland Department of Natural Resources (DNR), which manages the abandoned vessel program, provides reimbursable grants and expertise to assist public agencies in the removal of abandoned boats and debris from state waters. While this program may not address derelict fishing gear directly, components of the abandoned vessel program could serve as a model for derelict fishing gear removal.

Problem:

When boats have outlived their usefulness or are severely damaged by storm events, some boat owners find removal to be too expensive and simply leave their vessels behind on Maryland’s shorelines and waterways. Other times, boats may be abandoned due to the owner being deceased or in jail. The abandoned boats will often sink and sometimes breakdown into smaller pieces. In addition to being eyesores, these abandoned boats may impede navigation and harm the environment.

Maryland prohibits the abandonment of vessels and has implemented laws for the removal and disposal of abandoned vessels. Before removing a vessel, the state must follow certain procedures, such as attempting to locate the boat owner prior to removal. To amplify its removal efforts, the DNR has instituted the Abandoned Boat and Debris Program, which allows authorized public entities in Maryland to apply for grants to remove some of these vessels.

Responsible Entity:

Maryland Department of Natural Resources (DNR)

Program Authorization:

In general, a person may not abandon any vessel on any waters of the State. Maryland’s abandoned vessel laws specifically deal with designating vessels as abandoned, the assessment of civil and criminal penalties for vessel abandonment, removal and disposal requirements, and the title acquisition process that must be followed by private citizens. (MD. CODE § 8-725.1).

The DNR is authorized to seize, remove, and take into custody any abandoned vessel. The DNR can use its own personnel, equipment, and facilities or use other persons, equipment, and facilities for removing, preserving, or storing abandoned vessels. (MD. CODE § 8-721).

“Abandoned vessel” is defined as any vessel that:

- Is left illegally or has remained without permission for more than 30 days on public property, including public marinas, docks, or boatyards;
- Has remained either at a private marina or property operated by a private marina, or a private boatyard or property operated by a private boatyard for more than 90 days without the consent of the owner or person in control of the property;

- Has remained either at a private dock or at or near waters' edge on private property for more than 30 days without the consent of the owner or person in control of the property;
- Has remained on private property other than the private property described above for more than 180 days without the consent of the owner or person in control of the property; or
- Has been found adrift or unattended in or upon the waters of the State, and is found in a condition of disrepair as to constitute a hazard or obstruction to the use of the waters of the State or presents a potential health or environmental hazard. (MD. CODE § 8-721).

The DNR can delegate its authority to remove and dispose of abandoned vessels to any local jurisdiction that consents to the delegation. (MD. CODE § 8-721).

Program Implementation:

If a vessel meets the above definition of “abandoned vessel” the DNR will start removal procedures or allow private citizens to acquire title in certain instances. As part of the removal process, the DNR must spend time and funds to notify the owner, take the abandoned vessel into custody, and then make an additional attempt to contact the last known registered owner of the vessel. If the DNR is unable to determine the last registered owner or the identity of any secured party of the abandoned vessel, the DNR must give notice of seizure by publication. When an abandoned vessel is in such a state of disrepair that the Department cannot remove the vessel intact, the Department may dispose of the vessel without providing the notice required. (MD. CODE § 8-721). These procedures, while effective, are time consuming and costly to the DNR.

The Maryland Abandoned Boat and Debris Program allows authorized public entities in Maryland to apply for grants to remove vessels. Only local governments with ownership, management, or jurisdiction over the aquatic lands where the vessel or hazardous debris is located may apply for grants. Applicants can apply for up to \$25,000 for abandoned vessels and \$10,000 for debris removal. Reimbursement is contingent upon compliance with all terms and conditions of the grant. Funds for the program come from the state Waterway Improvement Fund, which is generated from the one-time five percent excise tax paid to the state when a boat is purchased and titled in Maryland.

Partners:

Local governments

Contacts:

Matt Negley
 DNR Boating Services - Abandoned Boat and Debris
 303 Marine Academy Drive
 Stevensville, MD 21666
 (410) 643 6521

Resources Used:

MD. CODE § 8-721.
 MD. CODE § 8-722.
 MD. CODE § 8-725.

Mary Gail Hare, *Abandoned Boats Litter Md. Waterways, With Few Resources to Remove Them*, BALTIMORE SUN, July 17, 2010. http://articles.baltimoresun.com/2010-07-17/news/bs-md-co-derelict-boats-hazard-20100716_1_derelict-boats-abandoned-boats-vessels

Abandoned and Derelict Vessels in Maryland, NOAA MARINE DEBRIS PROGRAM, <http://marinedebris.noaa.gov/abandoned-and-derelict-vessels/maryland>.

Maryland Abandoned Boat and Debris Program, MARYLAND DEPARTMENT OF NATURAL RESOURCES, <http://dnr2.maryland.gov/Boating/Pages/abandonedboats.aspx>.

Grants for Waterway Improvements, MARYLAND DEPARTMENT OF NATURAL RESOURCES, <http://dnr2.maryland.gov/boating/Pages/grants.aspx>.

**CASE STUDY:
NEW HAMPSHIRE’S MOA TO ALLOW DFG REMOVAL**

Overview:

In New Hampshire, state laws designed to protect the property of lobster harvesters hinder the removal of derelict lobster gear. State law makes it unlawful for anyone other than New Hampshire Fish and Game Department (NHFGD) conservation officers or the lobster gear owner to touch lobster gear. To expand the authority to remove derelict fishing gear beyond NHFGD conservation officers and gear owners, the NHFGD has signed a Memorandum of Agreement (MOA) with the New Hampshire Department of Resources and Economic Development (NHDRED). The MOA allows NHDRED employees to act as agents of the Executive Director of the NHFGD and remove derelict fishing gear from beaches and coastal parks.

DFG Problem:

To prevent theft of private property (e.g., traps, buoys, etc.), New Hampshire enacted laws that prohibit removing or even touching fishing gear belonging to someone else. In New Hampshire, it is unlawful for any person, except the owner of the gear or NHFGD conservation officers, to “take up, lift, molest, have in his possession, or transfer any pot, trap, car or other contrivance that is set for the taking or holding of lobsters or crabs, nor take, remove or carry away from the beach or shore, any such pot, trap, car or other contrivance or warp or buoy without the written permission of the owner. In addition to the penalty for violation of this section, said person, if he holds a license, must lose said license for one year.” (N.H. REV. STAT. ANN. § 211:31).

While these laws are important to protect the catch and property of lobster harvesters, they impede beach cleanups, as a NHFGD official must be present at the cleanup for gear to be legally removed. To aid in keeping NH’s coastal areas clean from derelict fishing gear, NHFGD and the NHDRED signed an MOA in 2015, formalizing requirements that the NHDRED employees must follow when collecting gear from coastal areas.

Prior to the formal MOA, NHDRED employees would collect derelict fishing gear from the coast based on an informal agreement with the NHFGD and worked with the Town of Hampton for disposal options. Under the current MOA, the derelict fishing gear must be delivered to a set location. Currently, the disposal sites are part of a recycling program, “Fishing for Energy,” a partnership between NHFGD, the National Fish and Wildlife Foundation, NOAA’s Marine Debris Program, Covanta Energy Corporation and Schnitzer Steel Industries.

Responsible Entity:

New Hampshire Fish and Game Department (NHFGD)

Program Authorization:

State law directs the Executive Director of the NHFGD to cooperate with other New Hampshire state agencies “for the protection, propagation, and preservation of all wildlife” in NH. (*see* N.H. REV. STAT. ANN. § 206:23). To facilitate cooperation with respect to derelict fishing gear removal, the NHFGD and NHDRED entered into an MOA. Memorandums of Agreement, also known as Memorandums of Understanding, are agreements to work together to achieve common

goals and are generally not legally binding. The MOA authorizes the NHDRED to act as an agent of the NHFGD for the purpose of collecting and disposing of derelict gear from beaches and coastal parks. The MOA does not delegate any NHFGD authority to NHDRED. The MOA also sets forth guidelines the NHDRED must follow when collecting and disposing of gear.

Program Implementation:

As noted above, NHDRED employees may act as agents of NHFGD and aid in retrieving derelict fishing gear only if certain requirements are met. These requirements include: NHDRED staff must be in the appropriate NHDRED uniform and vehicle when disturbing derelict fishing gear; any living organisms obtained during recovery must be released; and, NHDRED must notify the NHFGD with a report of any gear removed. In addition, gear with an identifiable owner must be placed in a designated location. Unusable gear or gear without an identifiable owner must be placed in designated disposal containers. This gear is recycled as part of the Fishing for Energy Program and converted into energy at a New Hampshire waste-to-energy plant.

Partners:

NHFGD
NHDRED

Contacts:

Lt. Michael Eastman, Chief, District 6
NH Fish and Game Department, Region 3
225 Main St.
Durham, NH 03824-4732
(603) 868-1095

Cheri Patterson, Supervisor of Marine Programs
NH Fish and Game Department, Region 3
225 Main Street
Durham, NH 03824-4732
(603) 868-1095

Resources Used:

N.H. REV. STAT. ANN. § 211:31.

NH Marine Debris to Energy Project, UNIVERSITY OF NEW HAMPSHIRE,
<http://cecf1.unh.edu/debris/index.cfm>.

**CASE STUDY:
WASHINGTON'S DFG REMOVAL IN PUGET SOUND**

Overview:

In 2002, Washington State adopted legislation authorizing the development of guidelines for safe, effective removal of derelict fishing gear. The Northwest Straits Initiative, in conjunction with the Washington Department of Fish and Wildlife (WDFW) and other federal and state agencies, subsequently drafted removal guidelines for implementation of the program.

DFG Problem:

In Puget Sound and the Northwest Straits region, the rocky reefs and outcroppings in the sound frequently snag gill nets. Additionally, recreational and commercial crabbing in the area resulted in abandoned crab pots, as the crab pot lines are clipped by passing vessels. As a result, hundreds of tons of derelict gear have collected in the area over time.

Unfortunately, regulatory barriers to gear removal, such as permit requirements for gear removal and penalties for fishermen reporting lost gear, historically prevented effective cleanup methods. In 2002, the Washington legislature adopted Senate Bill 6313 for the purpose of developing safe, effective methods to remove derelict fishing gear, eliminating regulatory barriers to gear removal, and discouraging future losses of fishing gear. WDFW and the Northwest Straits Initiative were directed to develop guidelines for gear removal.

Responsible Entity:

Washington Department of Fish and Wildlife (WDFW)

Program Authorization:

WASH. REV. CODE § 77.12.865(2) required the WDFW, in conjunction with the Northwest Straits Commission and other interested parties, to develop guidelines for the safe removal and disposal of derelict fishing gear. The Derelict Fishing Gear Removal Guidelines promulgated pursuant to WASH. REV. CODE § 77.12.865(2) establish the procedures for the removal of lost or abandoned fishing gear.

Program Implementation:

In 2001, the Northwest Straits Initiative, a program authorized by Congress to protect and restore marine resources in the Northwest Straits, received its first grant for a pilot derelict gear removal project. The Northwest Straits Initiative worked with state agencies and local organizations to devise diver-training protocols and identify priorities for gear removal activities.

Northwest Straits, in conjunction with WDFW and other federal and state agencies, developed removal guidelines as directed by S.B. 6313. As long as gear removal is conducted in accordance with these guidelines, the removing party is not subject to additional permits by the WDFW; however, authorization may be needed from private landowners or Tribe, state, or county parks depending on where the removal activities will occur. The guidelines focus on removing existing gear and preventing new gear from entering the water through non-regulatory means.

To remove gear, a removal plan must be submitted to WDFW 30 days in advance. Derelict gear removal methods vary based on the location and type of the gear. If the gear can be identified, the owner must be contacted in accordance with federal admiralty law and Washington State's Abandoned Property Law. Otherwise, the gear must be disposed of properly or recycled. A post-recovery report is due to the WDFW within 60 days of the operation or every six months if the project is of long duration.

In addition to the guidelines, Northwest Straits created a database of known derelict gear locations and established a phone and web-based reporting system. According to Northwest Straits, "Central to the success of the derelict gear program has been its grassroots nature and partnerships with commercial and recreational fishermen to locate and remove gear."

Partners:

Northwest Straits Marine Conservation Initiative
Marine Resources Committees of Whatcom, Skagit, San Juan, Snohomish, Clallam, Jefferson, and Island counties
National Oceanic and Atmospheric Administration
U.S. Fish and Wildlife Service
U.S. Environmental Protection Agency
U.S. Navy
Washington Department of Fish and Wildlife
Washington Department of Natural Resources
Washington Department of Ecology
Puget Sound Partnership
Tulalip Tribes
Stillaguamish Tribe
King County
National Fish and Wildlife Foundation
Commercial fishing and diving companies
Local ports
Private foundations

Contacts:

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Don Rothaus, Shellfish Biologist
Washington Department of Fish and Wildlife
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Mill Creek, WA 98012-1296
(425) 775-1311, ext 126
Don.Rothaus@dfw.wa.gov

Resources Used:

WASH. REV. CODE § 77.12.865(2).

Derelict Fishing Gear Removal Project, WASHINGTON DEPARTMENT OF FISH AND WILDLIFE FISHING & SHELLFISHING, <http://wdfw.wa.gov/fishing/derelict/>

Washington Department of Fish and Wildlife, *Derelict Fishing Gear Removal Guidelines*, <http://wdfw.wa.gov/publications/00871/>

Northwest Straits Initiative, THE DERELICT FISHING GEAR PROGRAM, <http://www.derelictgear.org/Our-Program.aspx>.

APPENDIX B

Alabama

Does the state legally define derelict fishing gear?

There is no Alabama law or regulation that expressly defines derelict fishing gear. Regulations use the term “marine litter” to describe traps left in the water during a temporary closed crab fishing season. (ALA. ADMIN. CODE § 220-3-.52). Unidentified, improperly marked, or illegally placed crab traps are considered nuisances and may be confiscated by a conservation enforcement officer or other authorized agent of the Alabama Department of Conservation and Natural Resources. (ALA. ADMIN. CODE § 220-3-.31). All commercial fishing equipment used in the waters of the state must be affixed with a tag which has the name, address, and Social Security number or tax identification number of the commercial fisherman owning the equipment imprinted on the tag. (ALA. CODE § 9-11-22).

What are the state requirements for marking gear?

All commercial fishing equipment used in the waters of the state must be affixed with a tag which has the name, address, and Social Security number or tax identification number of the commercial fisherman owning the equipment imprinted on the tag. (ALA. CODE § 9-11-22).

Traps

All crab traps must display identifying markings as set forth by regulations of the DCNR. (ALA. CODE § 9-12-124).

ALA. ADMIN. CODE § 220-3-.31(6) requires each commercial crab trap to be marked with at least one buoy no smaller than six inches in diameter. At least half of the buoy must be white. Buoys must be attached to the traps by use of a weighted line to prevent the line from floating. Plastic bottles are prohibited for use as a commercial crab trap buoy. The trap must be marked with the identification number of the owner of the trap, and the number must be at least one-inch in height and colored to be a definite contrast with the color of the float, of block character, and spaced so as to be readable from left to right above the water line.

Recreational crab traps must be marked with an orange floating, visible buoy not less than six inches in diameter or width. The buoy shall have a legible letter “R”, at least two inches high, permanently affixed to it. (ALA. ADMIN. CODE § 220-3-.31(10)).

Nets

All nets and seines, except purse seines, and seines 25 feet or less, must have a tag showing the name and number of the permittee and any other identification as required by regulation, when the nets or seines are in use or on board a boat in the waters of Alabama. (ALA. CODE § 9-12-113).

Gill nets and seines permitted under ALA. CODE §9-12-113, must be marked with the permittee’s name and shall be marked at intervals of 100 feet or less along the float line with colored floats

that contrast with any other floats used on the float line. Such gill nets shall be marked at intervals of 300 feet or less along the float line with the fisherman's permit number. (ALA. ADMIN. CODE § 220-3-.03(15)).

For any commercial fishing in public impounded waters and navigable streams with nets, seines, traps or other commercial fishing devices, their location must be marked by buoys or floats and nets and lines must be identified by showing the license number in plain figures upon the buoys or floats. The license number must be attached to all seines and nets, and at least one such buoy shall bear the name and address of the owner. (ALA. CODE § 9-11-147).

Other Gear

Slat boxes must have a metal tag stating the name, address and license number of the licensee operating and using each slat box. (ALA. CODE § 9-11-147).

ALA. ADMIN. CODE §220-3-30 allows for the use of trotlines in certain fisheries under the jurisdiction of the Marine Resources division; however, a float, no smaller than 6 inches in diameter, marked with the license number of the owner must be attached to each end of the trotline (the license number shall be at least one-inch in height and colored to be a definite contrast with the color of the float). It is unlawful to fish any trotline, snag or snare line without plastic or metal tag attached containing the owners name and either their address or fishing license number or phone number. (ALA. ADMIN. CODE 220-2-.46).

Oyster dredges must be tagged. (ALA. ADMIN. CODE § 220-3-.02(5)(c)).

Does the state have requirements for attending gear?

ALA. ADMIN CODE § 220-2-4(4) has requirements for times, places when nets must be constantly attended.

Set lines may not be left unattended for 48 hours. (ALA. ADMIN. CODE § 220-2-.44).

It is illegal to set and leave unattended in the public fresh waters of the state for more than seven consecutive days all fishing gear, including but not limited to, trot, snag and snare lines, hoop, fyke, gill and trammel nets, and slat traps and/or baskets; provided however, that any set line or bush hook left unattended for 48 hours may be removed by Game and Fish Division personnel and destroyed. (ALA. ADMIN. CODE § 220-2-.47(2)). *(DCNR is recommending amendment of 48 hour requirement per Chris Lewis, Assistant Chief Alabama Wildlife and Freshwater Fisheries Law Enforcement Section)*

Gill, trammel, and other entangling nets, and seines operated in the waters of Alabama under the jurisdiction of the Marine Resources Division must be constantly attended by the person licensed or permitted to operate the net. ALA. ADMIN. CODE § 220-3-.03(16)

Are there prohibitions on "molesting" fishing gear? If so, is "molesting" defined?

Alabama law does not use the term “molesting,” but intentionally damaging or destroying crab traps or the floats or lines attached to the traps is prohibited. ALA. ADMIN. CODE § 220-3-.31 (11).

The mutilation, destruction or removal of authorized buoys or on the public reefs, beds and bottoms of the State of Alabama is prohibited. (ALA. CODE § 9-12-62).

Are there any requirements that fishermen remove gear?

Crab traps which are no longer serviceable or in use must be removed from the water by the owner. Any unidentified, improperly marked, or illegally placed crab trap is considered a nuisance and may be confiscated by a conservation enforcement officer or other authorized agent of the DCNR. (ALA. ADMIN. CODE § 220-3-.31(11)-(12)).

Who can remove derelict or abandoned fishing gear?

DCNR is authorized to seize all instruments or devices prohibited by or constructed contrary to law and used unlawfully in taking, catching or killing fish in the public streams or waters of the state. The DCNR may use the devices as evidence and subsequently destroy or dispose of them. (ALA. CODE § 9-11-16; ALA. ADMIN. CODE 220-2-.46).

ALA. CODE § 9-11-151 stipulates that DCNR may seize any commercial fishing gear used in violation of laws pertaining to public impounded waters and navigable streams.

Are there closed periods to facilitate the removal of gear?

ALA. ADMIN. CODE § 220-3-.52 establishes a temporary closed crab fishing season (length: one day) in certain areas. Any traps in the closed areas are considered marine litter and may be removed by any individual. Any individual who removes crab traps (recreational or commercial) that are considered to be marine litter must remove the marine litter and properly dispose of them by placing such marine litter in an approved waste container or facility. It is unlawful to use any such marine litter for any personal purpose. There are restrictions for using airboats to assist with the removal of derelict crab traps. In the regulation, the closure date is listed as March 11 2006, with future dates to be announced through public notice.

What are the procedures for removing gear?

There are no specific procedures in state law regarding gear removal.

Are there other relevant definitions/laws/regulations for derelict or abandoned property?

Abandoned Vessels

“Alabama does not have laws that specifically address the designation process, removal or disposal requirements of abandoned or derelict vessels. Vessels that are found adrift are covered under Alabama Code (§ 35-13-1) of the state’s salvage laws, which state that any person may

take up and secure “all property adrift.” In addition, Alabama has laws that make it unlawful to place a “dangerous vessel” in a harbor in the state. Under Alabama Code § 33-1-33, any owner or agency in control of a vessel that is anchored, moored, or made fast to the shore illegally, or is liable to sink or pollute, or deemed to be derelict, can be charged with a fine if they fail to remove it.” *State of Alabama Abandoned and Derelict Vessel Legislative and Administrative Review-2015*, NOAA MARINE DEBRIS PROGRAM, https://marinedebris.noaa.gov/sites/default/files/ADV-Docs/ALABAMA_ADV_Legal_Review_2015_NOAA_MDP.pdf .

Aquaculture

No provisions regarding abandoned aquaculture gear were found.

Other

ALA. CODE § 13A-7-29 states that a person commits the crime of criminal littering if he or she (1) negligently deposits in any manner glass or other dangerously pointed or edged objects on or adjacent to water to which the public has lawful access for bathing, swimming, or fishing, or on or upon a public highway, or within the right-of-way or (2) discharges sewage, oil products, or litter from a watercraft vessel of more than 25 feet in length into a river, inland lake, or stream within the state or within three miles of the shoreline of the state. (*Added per Scott Bannon, Chief Enforcement Officer, Marine Resources Division. While this has not been used to remove DFG, the Marine Resources Division feels this could be used to remove DFG.*)

California

Does the state legally define derelict fishing gear?

There is no California law or regulation that expressly defines derelict fishing gear.

What are the state requirements for marking gear?

Traps

All crayfish traps must be permanently tagged with a visible, metal tag containing the crayfish permit number of the fisherman. (CAL. CODE REGS. § 116).

A Dungeness crab trap must contain a trap tag that is fastened to the main buoy, and an additional tag provided by the permit holder attached to the trap. (CAL. FISH & GAME CODE § 8276.5(3)(D)).

- Dungeness crab trap tags are supplied by the owner of the Dungeness crab trap and must contain the trap owner's telephone number. (CAL. CODE REGS. § 132.1).
- A Dungeness crab trap tag is required on Dungeness crab traps onboard a permitted Dungeness crab vessel. (*Id.*)
- If the information on the tag is illegible or incorrect, or if the tag is missing from the Dungeness crab trap for any reason, the trap will be considered not in compliance, and cannot be used to take Dungeness crab for commercial purposes. (*Id.*)

Sport fishing regulations require every crab trap in the Ocean and San Francisco Bay District be legibly marked to identify the operator's GO ID number as stated on his or her sport fishing license. (*Id.* § 29.80(c)(3)).

Nets

Set nets and set lines must be marked at both ends with buoys displaying above their waterlines, in numbers at least two inches high, the fisherman's identification number. Each piece or panel of a set net must be marked along the corkline of the net, in a manner determined by the California Department of Fish and Wildlife (DFW) to adequately identify the net, with the fisherman's identification number. The distance between the markings must not exceed 45 fathoms. (CAL. FISH & GAME CODE § 8601.5(a) & (b)).

Gill and trammel nets used to take fish in District 10 must be marked at each end with a buoy displaying the fisherman's identification number above its waterline in Arabic numbers at least two inches high. Nets must be marked at both ends and at least every 250 fathoms between the ends with flags of the same color and at least 144 square inches in size, acceptable to the DFW. (*Id.* § 8664.8(e)(2)).

Buoys

Every trap or string of traps must be marked with a buoy. (CAL. FISH & GAME CODE § 9005; CAL. CODE REGS. § 180).

- Each string of spot prawn traps must be marked with a buoy bearing the commercial fishing license identification number issued to the owner or operator of the vessel. (CAL. CODE REGS. § 180.1(d)).
- Every trap or string of traps placed in state waters to take finfish, mollusks or crustaceans for commercial purposes must be marked with a buoy. (CAL. CODE REGS. § 180.5).
- Buoys used to mark any trap or string of traps must be clearly and distinctly marked with a buoy identification number. (*Id.*)
- The identification number must be at least one and one-half inches high and one-quarter inch wide. (*Id.*)
- Each trap marker buoy must bear the specified number in a color that contrasts with the buoy and the number must be applied so that it is visible and legible. (*Id.*)

For the take of finfish or crustaceans, each buoy must be marked to identify the operator as follows:

- For a trap used to take lobster the commercial fishing license identification number followed by the letter “P.”
- For a trap used to take Dungeness crab or hagfish, the commercial fishing license identification number only.
- For a trap used to take finfish other than sablefish or hagfish, the commercial fishing license identification number followed by the letter “Z.”
- For a trap used to take sablefish, the commercial fishing license identification number followed by the letter “B.” (CAL. FISH & GAME CODE § 9006).

Each person taking crayfish for commercial purposes must designate a trapping area with at least two buoys, one at either end of a trap line; however, the buoys do not have to be attached to the trap line. Such buoys must be spaced no less than 200 feet, and no more than 1,200 feet apart. The upstream buoy must be painted red and the downstream buoy white. When single traps are employed such traps must be individually buoyed with a minimum spacing of 200 feet between traps. Buoys for single traps must be painted yellow. Each buoy must bear the permit number of the fisherman in a color that contrasts with that of the buoy. The permit number on the buoy must be at least one and one-half inches high and all markings must be at least one-quarter inch wide. (CAL. CODE REGS. § 116).

All lobster traps and receivers impounding lobsters must be individually buoyed. The buoys must be on the surface of the water, except after the first Tuesday in October when buoys can be submerged using metallic timing devices, commonly called “pop-ups.”

- Each buoy identifying a lobster trap must display the commercial fishing license identification number of the lobster operator permit holder followed by the letter P. The commercial fishing license number and the letter P must be in a color that contrasts with the buoy and must be at least one inch high and at least one-eighth inch wide.
- All lobster permit holders must maintain lobster trap buoys so that buoy identifying numbers are clearly readable.
- During the closed season for the taking of spiny lobster, no buoy attached to any trap can be marked so as to identify the trap as a lobster trap, except that legally marked lobster

traps can be placed in the water no more than six days before the opening of the season and can remain in the water for not more than six days after the close of the season, if the door or doors to such traps are wired open, the trap is unbaited, the buoy remains at the surface of the ocean, and no attempt is made to take spiny lobsters. (*Id.* § 122).

Every trap or string of traps deployed for purposes of commercially harvesting rock crab must be marked with a buoy. (*Id.* § 125(b)(2)).

Every string of traps must be marked with a buoy on each end of the string that is marked with the vessel's commercial boat registration number issued by the DFW. A vessel fishing under the authority of a Tanner Crab Trap Vessel Permit can only take, possess aboard a vessel, transport, deliver, or land Tanner crab from traps marked with the vessel's own registration number.

- The vessel's registration number on each buoy must be preceded by the letters "TC." The numbers and letters must be in a color that contrasts with the color of the buoy. A line no less than one-eighth inch thick should be used to create letters and numbers which can be no less than two inches high and no less than one inch wide. The permit holder must maintain the buoys so that the registration numbers and the letters "TC" are legible and easily determined. (*Id.* § 126(f)).

Every Dungeness crab trap placed in waters of the state to take Dungeness crab for commercial purposes must be marked with a buoy.

- Each Dungeness crab trap on board or fished from a permitted Dungeness crab vessel is required to have a biennial buoy tag affixed to the main buoy, known as a "buoy tag."
 - The buoy tag must contain the Dungeness crab vessel permit number and trap tier number.
 - All of the buoy tags allocated to each Dungeness crab vessel permit must be purchased by the permit holder biennially at the same time a Dungeness crab vessel permit is purchased or the permit will be void. The nonrefundable fee for each buoy tag is \$5.00.
 - Buoy tags cannot be leased and can be transferred to another person only as part of a transaction authorized under § 8280.3 of the Fish and Game Code. (*Id.* § 132.1).

Gill nets for harvesting herring must be marked at both ends with a buoy displaying above its waterline, in Roman alphabet letters and Arabic numerals at least 2 inches high, the official number of the vessel from which such net is being fished. Buoys must be lighted at both ends using matching white or amber lights that can be seen for at least 100 yards and marked at both ends with matching flags or markers or placards, all made of rigid or non-collapsible material of the same color, on a staff at least 3 feet above the water at each end, bearing the herring permit number in contrasting 4-inch black letters. (*Id.* § 163(F)).

Does the state have any requirements for attending gear?

There were no provisions found.

Are there prohibitions on "molesting" gear? If so, is "molesting" defined?

It is unlawful to operate a trawl net in a way that damages or destroys other types of fishing gear that is buoyed or otherwise visibly marked. (CAL. FISH & GAME CODE § 8496 (d)).

It is illegal to willfully disturb or injure any net, trap, or other apparatus to take fish that is being legally used in state waters. This section does not apply to employees of the DFW while they are performing their official duties. (*Id.* § 8604).

It is unlawful to willfully or recklessly disturb, move, or damage any trap that belongs to another person and that is marked with a buoy identification number pursuant to Section 9006. (*Id.* § 9002).

For the Tanner crab fishery, it is unlawful to willfully or recklessly disturb, move or damage any trap or attachment thereof that belongs to another owner and that is marked with a vessel registration number and the letters “TC.” (CAL. CODE REGS. § 126).

Sport fishing regulations make it illegal to disturb, move, or damage any trap; or remove any saltwater crustacean from a trap that belongs to another person without written permission from the owner of the trap. (*Id.* § 29.80(a)(3)).

Are there any requirements that fishermen remove gear?

The abandonment of traps in state waters is prohibited. (CAL. FISH AND GAME CODE § 9004).

All crayfish traps must be raised and processed at least once every 72 hours. Traps not processed within this time limit will be considered abandoned and will be subject to seizure by DFW personnel. (CAL. CODE REGS. § 116(k)).

All herring fishing gear must be removed from the water by the announced time terminating fishing operations. (*Id.* § 163(e)(3)).

In areas where the season closure begins November 1, all spot prawn traps must be removed from the water prior to November 1 (weather and sea conditions permitting). In areas where the season closure begins May 1, all traps must be removed from the water prior to May 1 (weather and sea conditions permitting). (*Id.* § 180.1(a)(2)).

If a person is unable to recover a set net or portion of a set net, the person must contact one of the DFW offices located in the City of Belmont, Monterey, Los Alamitos, or San Diego, not later than 72 hours after returning to port following the loss and must report all of the following information:

- The date and time when the set net was lost.
- The location, including depth, where the net was lost.
- A description of the lost net, including the mesh size, length, height, and target species, and whether anchors remain attached to the net.
- The name and fisherman’s identification number of the person owning the net.

- The name and fisherman's identification number of the person fishing with the net, if different from the owner of the net.
- The name and California Fish and Game number of the vessel from which the lost net was being fished. (CAL. FISH & GAME CODE 8601.5).

A person may raise his or her own trap marked with a buoy. Others pulling or raising a trap marked with a buoy identification number, other than his or her own buoy identification number, must have written permission in his or her possession from the other person who holds the buoy identification number that is marked on the buoy. (*Id.* § 9002).

Who can remove derelict or abandoned fishing gear?

Employees of the DFW who are engaged in the performance of official duties may remove traps. In addition, publicly employed safety personnel, including, but not limited to, lifeguards, marine safety officers, harbor patrol officers, and peace officers, while engaged in the performance of their official duties, may remove a trap, buoy, or line located in or near breaking surf or adjacent to a public beach if they believe that the trap poses a public safety hazard. If any of those persons remove a trap, a buoy, or a trap or buoy line, any captured marine life must be immediately returned to the ocean. (CAL. FISH AND GAME CODE § 9002).

- After removing a trap or attachments identified by a buoy identification number, employees must make an attempt to contact the person whose permit or license number is marked on the buoy by personal contact, by telephone, by recorded message left on a telephone answering machine, by mail, or by other means, advising where the property is located. Those employees do not have responsibility to secure the trap or attachments against loss or damage.
- Employees of the DFW may disclose the name, address, and buoy identification numbers of currently permitted or licensed persons to representatives of public safety agencies described in this subdivision to assist in the return of traps and attachments to their proper owners or operators.
- If the person whose permit or license number is marked on the buoy has been notified pursuant to this subdivision but has not retrieved the trap within seven days of notification, or if that person cannot be identified within seven days after the trap has been removed, the trap may be discarded.
- This does not create any duty on any state or local agency to remove or move a trap, line, or buoy that may endanger the public safety and does not create any liability. (*Id.* § 9002).

The DFW has developed regulations for the retrieval of lost or abandoned commercial crab traps pursuant to CAL. FISH AND GAME CODE § 9002.5.

- A Dungeness crab vessel can retrieve and transport commercial Dungeness crab traps that were lost, damaged, abandoned, or otherwise derelict without a buoy tag assigned to that vessel. However, no more than six derelict Dungeness crab traps can be retrieved per fishing trip, except as provided below. (CAL. CODE REGS. § 132.2).
- Crab from the retrieved Dungeness crab traps cannot be retained and must be returned to the ocean waters immediately. Immediately upon retrieval of Dungeness crab traps, the

retrieving vessel operator must log the date and time of trap retrieval, number of retrieved Dungeness crab traps, location of retrieval, and retrieved trap tag information. (*Id.*)

- From July 16 through October 31, an unlimited number of Dungeness crab traps can be retrieved per fishing trip and transported to shore during the same fishing trip.
 - Under a waiver granted by the DFW, retrieval of more than six Dungeness crab traps to shore by another Dungeness crab permitted vessel is allowed if the vessel is incapacitated due to a major mechanical failure or destroyed due to fire, capsizing, or sinking, or circumstances beyond the control of the permit holder created undue hardship. (*Id.*)
- Any retrieved Dungeness crab traps must be transported to shore during the same fishing trip that retrieval took place. (*Id.*)
- A request for the waiver must be submitted in writing to the DFW's License and Revenue Branch. A copy of the waiver approved by the DFW must be on board the vessel making the retrieval. The waiver must include conditions such as time period to conduct retrieval, landing prohibitions or any other criteria the DFW deems necessary. (*Id.*)

In addition, any trap that is used without a buoy, or with a buoy that is improperly marked, is considered a public nuisance which may be removed by any person authorized to enforce the California Fish and Game Code. (CAL. FISH AND GAME CODE § 9007).

Any trap used in violation of the Fish and Game Code, or any regulations under the code, is a public nuisance and may be seized. (*Id.* § 9008).

Any hoop net abandoned or left unchecked for more than 2 hours will be considered abandoned and will be seized by any authorized person. (CAL. CODE REGS. § 29.80(b)(2)).

Any person pulling or raising crayfish traps bearing a permit number other than his own must have written permission to pull the traps from the person who holds the crayfish permit number identifying those traps. (*Id.* § 116).

If lost or abandoned set nets are recovered by the DFW or persons designated by the DFW, the Fish and Game Commission (Commission) may require the owner of the lost or abandoned net to pay for all recovery costs. The Commission may also revoke the owner's set net permit for failure to comply with this subdivision. (CAL. FISH & GAME CODE § 8601.5(a) & (b)).

Are there closed periods to facilitate the removal of gear?

As noted above, in areas where the season closure begins November 1, all spot prawn traps must be removed from the water prior to November 1 (weather and sea conditions permitting). In areas where the season closure begins May 1, all traps must be removed from the water prior to May 1 (weather and sea conditions permitting). In the event that a permittee cannot comply with this requirement, then that person must notify the nearest DFW office via telephone or fax and certified mail no later than 4:00 p.m. on November 1 or May 1 (whichever is applicable) stating the reason for the delay and the anticipated date of trap removal. Notification does not relieve the permittee of responsibility for complying unless approved by the DFW. (CAL. CODE REGS. § 180.1(a)(2)).

Are there other relevant definitions/laws/regulations for derelict or abandoned property?

Abandoned Vessels

“Marine debris” is defined as a vessel or part of a vessel, including a derelict, wreck, hulk, or part of any ship or other watercraft or dilapidated vessel, that is unseaworthy and not reasonably fit or capable of being made fit to be used as a means of water transportation. (CAL. FISH & GAME CODE § 550(b)).

Aquaculture

None provisions regarding abandoned aquaculture gear were found.

Connecticut

Does the state legally define derelict fishing gear?

Connecticut does not define derelict fishing gear. State law does provide that any fishing gear “which is abandoned, discarded or thrown away in an attempt to destroy or conceal evidence or to prevent apprehension, may be seized and taken into possession by any conservation officer.” (CONN. GEN. STAT. § 26.23).

What are the state requirements for marking gear?

Traps

All live cars or other devices in which lobsters are kept in the water, after having been removed from the pots, traps or trawls in which they were caught must be branded, in letters or figures not less than three-quarters of an inch in height, with the number of the license issued by the Commissioner of the Department of Energy and Environmental Protection (DEEP) to the owner of such live car or other device for the taking of lobsters. (CONN. GEN. STAT. § 26-157a(a)).

All lobster pots, traps or similar devices for the catching of lobsters must be suitably identified by having legibly branded on the top of the pot, or trap or similar device and painted or branded on the float in letters or figures not less than three-quarters of an inch in height the number of the license issued by the commissioner to the owner of such pot, trap or similar device for the taking of lobsters. (*Id.* § 26-157a(b)).

No person may use any fish pots or fish traps and the buoys unless the pot, trap, and buoy is affixed with the commercial fishing license plate number of the owner in numbers not less than three-quarters of an inch in height. (CONN. AGENCIES REGS. § 26-142a-6).

All lobster pot buoys used in the waters of this state must be of uniform color and pattern of coloration, such color or pattern to be determined by the license holder. (*Id.* §26-157c-2(e))

Pots must be affixed with a tag that is valid for the period from June 1 through May 31. (*Id.* § 26-157c-4(d)(1)).

- Tags shall only be fished in Lobster Management Areas (LMAs) for which they are designated. Possession of untagged pots on the waters of any LMA is prohibited.
- The tag must be affixed to the top of the pot, provided that it is not affixed to any portion of the door or to any cut wire mesh.

Buoys

Does this state have requirements for attending gear?

No provisions were found.

Are there prohibitions on “molesting” gear? If so, is “molesting” defined?

No person except the licensed owner, an authorized licensed agent of the owner, the commissioner or authorized agents of the DEEP or law enforcement officers empowered to serve criminal process shall remove or attempt to remove any fish or lobster from any pound, weir, net, pot or other device used for the purpose of taking or retaining fish or lobsters. (CONN. GEN. STAT. § 26-167).

- No person shall have in his possession or set or cause to be set any trap, pot or other device for taking fish or lobsters which belong to another without having written authorization from the owner or his authorized agent. Any trap, pot or other device so set and not identified by the owner’s number, as assigned by DEEP, shall be considered prima facie evidence of having been stolen or illegally possessed by the person setting the same.
- Any unauthorized person who lifts, raises, draws or molests, or assists in so doing, any trap, pot or other device set for the purpose of taking fish or lobsters, or steals any fish or lobster therefrom except as provided herein, shall be fined not more than \$200 or be imprisoned not more than six months or both. Any trap, pot or other device and accessories thereto used in violation of CONN. GEN. STAT. § 26-167 shall be forfeited to the state and shall be sold or otherwise disposed of by DEEP.

Are there any requirements that fishermen remove gear?

No provisions were found.

Who can remove derelict or abandoned fishing gear?

While Connecticut does not have any provisions directly addressing derelict fishing gear, the Department of Environmental Protection does have the authority to remove gear that is not in compliance with state law.

- Lobster pots and traps in use which are not marked as required or do not contain the required escape vents and escapement panels may be seized by any authorized representative of DEEP and disposed of as determined by the agency. (CONN. GEN. STAT. § 26-157a(b); CONN. AGENCIES REGS. § 26-157c-2).
- Any lobster pot, trap or similar device found to contain a defaced or obliterated license number may be seized by any authorized representative of DEEP of Environmental Protection and either used by DEEP for purposes of marine research or destroyed. (*Id.*)

In addition, any fishing gear “which is abandoned, discarded or thrown away in an attempt to destroy or conceal evidence or to prevent apprehension, may be seized and taken into possession by any conservation officer.” (CONN. GEN. STAT. § 26.23).

- If the owner or person having custody of any such article at the time it is abandoned, discarded or thrown away fails to claim such article within one year after it comes into the possession of such officer, such article shall be forfeited to the state and may be retained for use by DEEP, may be sold at public auction, or may be destroyed at the discretion of DEEP. The proceeds from such sales shall be paid to the state treasurer to be credited to the general fund.

Are there closed periods to facilitate the removal of gear?

No provisions were found.

Are there other relevant definitions/laws/regulations for derelict or abandoned property?

Abandoned Vessels

“Derelict vessel” means any vessel, scow, lighter or similar floating structure or part thereof, whether or not moored, anchored or made fast to shore, that is broken or altered to such an extent that it will not keep afloat with ordinary care. (CONN. GEN. STAT. § 15-3a.)

It is dependent upon duly authorized harbor masters to determine if a vessel is derelict and requires removal. (*Id.* § 11a.)

Aquaculture

No provisions regarding abandoned aquaculture gear were found.

Florida

Does the state legally define derelict fishing gear?

Florida Fish and Wildlife Conservation Commission (FWCC) defines “derelict trap” as any trap during any closed season for the species, or any fishable trap during the open season that lacks more than two of the following elements: buoy, line, FWCC-issued trap tag (if required), or current license. (FLA. ADMIN. CODE ANN. r. 68B-55.001(3)).

Florida also defines “trap debris” as any piece of a trap, or any combination of such pieces not constituting a fishable trap. (*Id.* r. 68B-55.001(2)).

During the *closed* season for the harvest of any species for which traps are allowable gear, and after any authorized trap retrieval period together with any extensions, traps are considered to be derelict and may be retrieved as part of coastal cleanup events conducted by local, state, or federal government entities, nonprofit nongovernmental organizations, fishery participant organizations, or other community or citizens groups. (*Id.* r. 68B-55.004).

What are the state requirements for marking gear?

Traps

It is unlawful for a person to possess or use a stone crab trap in or on state waters or adjacent federal waters without having a trap tag required by the FWCC attached to the trap. (FLA. STAT. § 379.365(2)(a); FLA. ADMIN. CODE ANN. r. 68B-13.010(b)).

For blue crab traps, each trap must have the harvester’s blue crab endorsement number permanently affixed to it. Individuals fishing with no more than five traps are exempt from marking requirements. (FLA. STAT. § 379.366; FLA. ADMIN. CODE ANN. r. 68B-45.007(7)(b)).

Each trap used to take or attempt to take spiny lobsters in state waters or adjacent federal waters must have an annual trap tag issued by the FWCC attached to the trap. Each tag must be made of durable plastic or similar material and must, based on the number of certificates held, have the owner’s license number stamped on it. (FLA. STAT. § 379.3671).

- Further, traps with tags that are not firmly affixed by nails, staples, or otherwise securely fastened as may be provided by the FWCC, will be considered untagged for enforcement purposes. (FLA. ADMIN. CODE ANN. r. 68B-24.006(4)).

Buoys

For commercial harvesting of stone crabs, a buoy or time-release buoy must be attached to each trap or at each end of a weighted trap trotline. (FLA. ADMIN. CODE ANN. r. 68B-13.008(3)).

- The buoy must be constructed of styrofoam, cork, molded polyvinyl chloride, or molded polystyrene, be of sufficient strength and buoyancy to float, and be of such color, hue, and

brilliance as to be easily distinguished, seen, and located. Buoys must be either spherical in shape with a diameter no smaller than 6 inches or some other shape so long as it is no shorter than 10 inches in the longest dimension and the width at some point exceeds 5 inches. No more than 5 feet of any buoy line attached to a buoy used to mark a stone crab trap or attached to a trotline must float on the surface of the water. (*Id.*)

- Except for commercial harvesting of stone crabs, the buoy attached to each trap used to harvest stone crabs must have a legible “R”, at least two inches high, permanently affixed to it. The trap must have the harvester’s name and address permanently affixed to it in legible letters. (*Id.* r. 68B-13.009(3)).

For black sea bass traps, each buoy attached to a trap must have the letter “B” and the owner’s saltwater products license number affixed to it in legible figures at least 1.5 inches high. Further, a buoy or time-release buoy must be attached to each black sea bass trap or at each end of a weighted trap trotline.

- The buoy must be constructed of styrofoam, cork, molded polyvinyl chloride, or molded polystyrene, be of sufficient strength and buoyancy to float, and be either white in color or the same color as the owner’s blue crab or stone crab buoy colors. Buoys must be either spherical in shape with a diameter no smaller than 6 inches or some other shape so long as it is no shorter than 10 inches in the longest dimension and the width at some point exceeds 5 inches. No more than 5 feet of any buoy line attached to a buoy used to mark a black sea bass trap or attached to a trotline must float on the surface of the water. (*Id.* r. 68B-14.005(5)(a), (c)).

For spiny or slipper lobster traps, all traps must have a buoy or a time release buoy attached to each spiny lobster trap or at each end of a weighted trap trotline which must be a minimum of six inches in diameter and constructed of styrofoam, cork, molded polyvinyl chloride, or molded polystyrene, and must be of sufficient strength and buoyancy to float and of such color, hue, and brilliance as to be easily distinguished, seen, and located. (*Id.* r. 68B-24.006(5)(3)).

- Further, each trap and buoy used to harvest spiny lobster must have the commercial harvester’s current crawfish license or trap number permanently affixed in legible figures. On each buoy, the affixed crawfish license or trap number must be at least 2 inches high. (*Id.*)

For blue crab traps, a buoy or time-release buoy must be attached to each trap or at each end of a weighted trap trotline. (*Id.* r. 68B-45.004(3)).

- The buoy must be constructed of styrofoam, cork, molded polyvinyl chloride, or molded polystyrene, be of sufficient strength and buoyancy to float, and be of such color, hue, and brilliance as to be easily distinguished, seen, and located. Buoys must be either spherical in shape with a diameter no smaller than 6 inches or some other shape so long as it is no shorter than 10 inches in the longest dimension and the width at some point exceeds 5 inches. No more than 5 feet of any buoy line attached to a buoy used to mark a stone crab trap or attached to a trotline must float on the surface of the water. (FLA. ADMIN. CODE

ANN. r. 68B-45.004(3)).

- For blue crabs, each buoy attached to a trap must also have the harvester's blue crab endorsement number permanently attached to the buoy. The blue crab endorsement number must be affixed in legible figures at least 2 inches high on each buoy used. (FLA. STAT. § 379.366(1)).
- Also for blue crab traps, the buoy attached to each trap used to harvest blue crab, other than those used to harvest for commercial purposes, must have a legible "R", at least two inches high, permanently affixed to it. The trap must have the harvester's name and address permanently affixed to it in legible letters. (FLA. ADMIN. CODE ANN. r. 68B-45.004(4)).

Does this state have requirements for attending gear?

For the Southwest Region, haul seines must be attended continuously. (FLA. ADMIN. CODE ANN. r. 68A-23.003).

For Volusia County, no trap may be abandoned or discarded in or along the shore of the waters of Volusia County and no buoyed crab traps may be left unattended for more than 72 hours, weather permitting. (*Id.* r. 68B-3.008 (3)(h)).

Are there prohibitions on "molesting" gear? If so, is "molesting" defined?

"Molest," in connection with any fishing trap or its buoy or buoy line, means to touch, bother, disturb, or interfere or tamper with, in any manner. (FLA. STAT. ANN. § 379.101).

State law makes it unlawful for any person, firm, or corporation to *willfully* molest any authorized and lawfully permitted freshwater fishing gear belonging to another without the express consent of the owner. (FLA. STAT. § 379.405(1)(a)). Further, it is a violation for someone to *willfully* molest any stone crab, blue crab, or spiny lobster trap, line, or buoy that is the property of any license holder. (*Id.* at §§ 379.365, 379.367).

Are there any requirements that fishermen remove gear?

Under the spiny lobster trap certificate program, all traps must be removed from the water during any period of suspension or revocation. (FLA. STAT. § 379.3671(2)(c) 9).

All traps used for harvest of spiny lobster must be removed from state waters by April 5th of each year, with an extension in certain circumstances. Any remaining traps are deemed a public nuisance and may be removed by law enforcement. (FLA. ADMIN. CODE ANN. r. 68B-24.005).

Stone crab traps must be removed within 5 days after the close of the stone crab season. FLA. ADMIN. CODE ANN. r. 68B-13.008

For the blue crab fishery, all traps must be removed from the water before 12:01 a.m. local time on the first day of each regional closure. Traps found in state waters during the closures are deemed a public nuisance and will be disposed of in the manner approved by the Commission. FLA. ADMIN. CODE ANN. r. 68B-45.0045

Who can remove derelict or abandoned fishing gear?

The Fish and Wildlife Conservation Commission is authorized to implement a trap retrieval program for retrieval of spiny lobster, stone crab, blue crab, and black sea bass traps remaining in the water during the closed season for each species. The FWCC is authorized to contract with outside agents for the program operation. (FLA. STAT. § 379.2424).

- Traps may be retrieved by FWCC personnel or by a contractor under direct oversight of such personnel; or by any approved persons through either a cooperative agreement with federal, state, or local governments, or with fishery participant organizations acting in conjunction with the FWCC. (FLA. ADMIN. CODE ANN. r. 68B-55.003).

Pursuant to FLA. STAT. § 379.2424, the FWCC will assess trap owners a fee of \$10 per trap retrieved. However, for each person holding a spiny lobster endorsement, a stone crab endorsement, or a blue crab endorsement issued under rule of the Commission, the retrieval fee will be waived for the first five traps retrieved. (FLA. STAT. ANN. § 379.368).

Are there closed periods to facilitate the removal of gear?

Under the trap retrieval program mentioned above, the FWCC may coordinate trap removal during closed seasons. “Closed season” means a specified period of time during which harvest is prohibited. (FLA. ADMIN. CODE ANN. r. 68B-55.001(1)). Closed season for spiny and slipper lobster is April 1-August 5. During this time, no person may harvest, attempt to harvest, or have in his possession any spiny or slipper lobster. (*Id.* r. 68B-24.005(1)).

Closed seasons for blue crab harvesting varies by geographic region:

- All waters of the St. Johns River, its associated lakes and tributaries from west of the St. Johns River’s intersection with the Intracoastal Canal through and including Lake Hellen Blazes from January 16 through January 25 of even numbered years;
- All waters of Nassau, Duval, Clay, St. Johns, Putnam, Flagler, and Volusia counties from August 20 through August 29 of even numbered years, however, not including waters listed in FLA. ADMIN. CODE ANN. r. 68B-45.0045(1)(a)(1);
- All waters of Brevard, Indian River, St. Lucie, Martin, and Palm Beach counties from August 10 through August 19 of even numbered years, however, not including waters listed in FLA. ADMIN. CODE ANN. r. 68B-45.0045(1)(a)(1);
- All waters of Broward, Miami-Dade, Monroe, Collier, Lee, Charlotte, DeSoto, Sarasota, Manatee, Hillsborough, Pinellas, and Pasco counties from July 10 through July 19 of odd numbered years;
- All waters of Wakulla, Jefferson, Taylor, Dixie, Levy, Citrus, and Hernando counties and including all waters of the Ochlockonee River and Ochlockonee Bay from July 20 through July 29 of odd numbered years;

- All waters of Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, and Franklin counties from January 5 through January 14 of odd numbered years, however, excluding all waters of the Ochlockonee River and Ochlockonee Bay. (FLA. ADMIN. CODE ANN. r. 68B-45.0045).

What are the procedures for removing gear?

Under the trap retrieval program, traps must be retrieved by FWCC personnel or by a contractor under direct oversight of FWCC personnel. (FLA. ADMIN. CODE ANN. r. 68B-55.003). Unclaimed traps will be properly disabled and disposed of as trap debris. (*Id.*)

- During the *closed* season for the harvest of any species for which traps are allowable gear, and after any authorized trap retrieval period together with any extensions, traps are considered to be derelict and may be retrieved as part of coastal cleanup events conducted by local, state, or federal government entities, nonprofit nongovernmental organizations, fishery participant organizations, or other community or citizens groups. (FLA. ADMIN. CODE ANN. r. 68B-55.004).
- During the *open* season for harvest of any species for which traps are allowable gear, retrieval of derelict traps may occur at any time deemed appropriate by the FWCC. FWCC employees, local, state, or federal personnel, or members of a fishery participant organization. (FLA. ADMIN. CODE ANN. r. 68B-55.004).

Are there other relevant definitions/laws/regulations for derelict or abandoned property?

Abandoned Vessels

“Derelict vessel” means a vessel that is left, stored or abandoned: (1) in a wrecked, junked, or substantially dismantled condition upon any public waters of Florida; (2) at a port in Florida without the consent of the agency having jurisdiction over the port; or (3) docked, grounded, or beached upon the property of another without consent of the owner of the property. (FLA. STAT. § 823.11(1)(b)).

It is unlawful for a person, firm, or corporation to store, leave, or abandon any derelict vessel in Florida. (*Id.* § 823.11(2)). The FWCC, officers of the FWCC, and any law enforcement agency or officer are authorized and empowered to relocate, remove, or cause to be relocated or removed, derelict vessels in violation of the chapter. (*Id.* § 823.11(3)).

Aquaculture

No provisions regarding abandoned aquaculture equipment were found.

Maine

Does the state legally define derelict fishing gear?

Maine does not legally define “derelict fishing gear.” State law does define, however, a similar term—abandoned aquaculture equipment—to mean “any equipment associated with the operation of an aquaculture lease or license . . . that has been left by the aquaculture lease or license holder in coastal waters without intention of removal.” (ME. REV. STAT. ANN. tit. 12, § 6086(1)(A)). This is discussed in more detail below.

What are the state requirements for marking gear?

Traps

It is unlawful to set, raise, lift or transfer any lobster trap or buoy unless it is clearly marked with the owner’s lobster and crab fishing license number or the owner’s nonresident lobster and crab landing permit number and the color design of the attached buoy is the same as the color design that is on file with the license application and is displayed on the boat, or unless the person is duly licensed and possesses written permission from the rightful owner of the lobster trap or buoy. The buoy must be visible at the surface. (ME. REV. STAT. ANN. TIT. 12, § 6432(2)-(3)).

No person is allowed to fish with or have on board a vessel a lobster trap unless a valid lobster trap tag issued by the Department of Marine Resources (DMR) is securely attached to the frame of the trap. The lobster trap tag must be affixed to the bridge of the lobster trap so that the tag information is clearly visible for inspection by a Marine Patrol Officer. Further, no person is allowed to fish with, lift, haul, raise, or transport any lobster trap with a tag which has been tampered with or where the tag number is illegible or missing. (13-188-25 ME. CODE R. § 25.08).

Nets

Bait gillnets must be clearly marked at each end with buoy sticks at least 4 feet in length. The license-holder’s name, homeport, and Commercial Pelagic and Anadromous Fishing License number must be clearly displayed on every marking buoy. (13-188-55 ME. CODE R. § 04). This also applies in the Maine Sliver Area. (*Id.* § 75.03).

Buoys

It is unlawful to set, raise, lift or transfer any green crab trap unless it is clearly marked with a buoy that has the owner’s green crab fishing license number written on it. No floating or neutral line will be allowed. The buoy must be visible on both sides of the boat. (13-188-45 ME. CODE R. § 25.40(A)(3)).

Does the state have requirements for attending gear?

For trap and pot fishing gear, there is no wet storage of gear over 30 days. (13-18-75 ME. CODE R. § 75.02).

Are there prohibitions on “molesting” gear? If so, is “molesting” defined?

A person may not raise, lift, transfer, possess, or otherwise molest lobster traps, unless that person is a marine patrol officer, the licensed owner, or any person having written permission to do so. (ME. REV. STAT. ANN. TIT. 12 § 6434(1)).

It is unlawful to molest the fishing equipment of any river herring fishing lease holder or to interfere with the fishing rights granted by the lease. (*Id.* § 6131(7)).

Are there any requirements that fishermen remove gear?

No provisions requiring fishermen to remove gear were found.

Who can remove derelict or abandoned fishing gear?

A marine patrol officer, the licensed owner, or any person having written permission to do so. (ME. REV. STAT. ANN. tit. 12, at § 6434(1)).

Are there closed periods to facilitate the removal of gear?

No provisions were found.

What are the procedures for removing gear?

The commissioner may dispose of such traps, warps, buoys or cars, or authorize their disposal, if the owner cannot be identified or if the owner has been notified and fails to respond within 30 days. (ME. REV. STAT. ANN. tit. 12 § 6434(2)).

Are there other relevant definitions/laws/regulations for derelict or abandoned property?

Abandoned Vessels

There is not a legal definition for “derelict” vessel. “Abandoned Watercraft” means any watercraft that is inoperative and neglected, submerged or partially submerged or that has been left by the owner in coastal waters without intention of removal. This term includes motors, electronic and mechanical equipment and other machinery customarily used in the operation of watercraft. (ME. REV. STAT. ANN. tit. 12, § 1866(1)(A)).

It is unlawful to bring into or maintain in the harbor any derelict watercraft, watercraft for salvage, or abandon any watercraft in the harbor without a permit from the harbor master or, if there is no harbor master, the appropriate municipal official. Whoever does so without permit is guilty of a Class E crime. This law does not apply to certain licensed salvage watercraft. (ME. REV. STAT. ANN. tit. 38, § 9).

The municipal board or commission entrusted with harbor management is the sole determiner as to what constitutes a watercraft that is derelict and what constitutes a watercraft that is abandoned. (*Id.*).

Aquaculture

Abandoned aquaculture equipment is defined as “any equipment associated with the operation of an aquaculture lease or license . . . that has been left by the aquaculture lease or license holder in coastal waters without intention of removal.” (ME. REV. STAT. ANN. tit. 12, § 6086(1)(A)).

“Abandoned aquaculture stock” means “cultured marine organisms, including, but not limited to, fish, shellfish, sea urchins and algae, that have been left by the owner in coastal waters without intention of removal.” (*Id.* § 6086(1)(B)).

The DMR or an authorized third party may remove abandoned aquaculture equipment or abandoned aquaculture stock. (*Id.* § 6086(3)(A)-(B)).

- Prior to removing any abandoned equipment or stock, the DMR must give notice to the lease or license holder, who must respond within 15 days and remove the equipment within 60 days or the DMR will initiate removal. (*Id.* § 6086(3)(A)).
- If the DMR removes abandoned aquaculture equipment or abandoned aquaculture stock, the DMR may sell the equipment or stock. (*Id.* § 6086(3)(D)).

Maryland

Does the state legally define derelict fishing gear?

Maryland does not define “derelict fishing gear.”

What are the state requirements for marking gear?

Maryland requires commercial fishing licensees to display the identification number provided by the Department of Natural Resources (DNR) on every vessel, vehicle, gear, or place of business used to catch, hold, transport, process, sell, buy, or otherwise deal in seafood. (MD. CODE REGS. § 08.02.01.02).

Traps

A crab pot set for recreational purposes must be set in front of the person’s property, within 100 yards of the shore, and attached by a line to the property or a privately owned pier or dock or marked by a buoy or pole and sign. It must also be marked with the owner’s DNR identification number (if crabbing in the Chesapeake Bay or its tidal tributaries) or name and address (if crabbing in the Atlantic Ocean, its coastal bays, or their tidal tributaries). (MD. CODE REGS. § 08.02.03.07(D)(3)).

A trap (in tidal or nontidal waters) must be marked with the individual’s name and address or DNR identification number and checked daily. (*Id.* §§ 08.02.25.02(B)(3); 08.02.25.03(B)(2)).

A trap (in tidal or nontidal waters) must be set in front of the individual’s property, or property belonging to another if an individual has received the landowner’s permission, within 100 feet of the shore, and attached by a line to the property or a privately owned pier or dock, marked by a buoy or pole and sign. A trap may also be attached to a boat that is not docked. (MD. CODE REGS. § 08.02.25.02(B)(4) & § 08.02.25.03(B)(3)).

Nets

The outer end of the submerged gear of any anchored gill net, fyke net, or hoop net must be marked by means of a paddle, a board, or a buoy or other floating device that shows the name and license number of the net owner. (MD. CODE § 4-710(e)).

Pound nets must be marked with specified lights and reflective tape. (MD. CODE REGS. § 08.02.05.01)

In the tidal waters of the Chesapeake Bay and its tributaries, a gill net cannot be used to harvest fish or possessed aboard a vessel, unless the gill net has each marker, cork, or float marked with the licensee’s commercial tidal fish number; or a float line with a marker permanently affixed every 50 feet bearing the licensee’s commercial tidal fish number. (*Id.* § 08.02.15.07(C)(2)(d)).

A drift gill net set in the Chesapeake Bay or Atlantic Ocean must be marked, by the licensee, at one end by a square flag measuring at least 144 square inches, supported by a staff sufficient to

maintain the flag bottom at least 3 feet above the surface of the water. The end of a gill net opposite the flag marker must be marked by either a triangular flag of at least 144 square inches or a floating marker with a volume of at least 460 cubic inches. Each flag or floating marker must be marked with the licensee's commercial tidal fish license number. (*Id.* § 08.02.15.07(C)(6)).

A drift gill net set in tributaries of the Chesapeake Bay or Atlantic coastal bays and their tributaries must be marked by the licensee at each end with a floating marker with a volume of at least 460 cubic inches, each bearing the licensee's commercial tidal fish license number, or a flag according to MD. CODE REGS. §A(8). (*Id.* § 08.02.15.07(C)(7)).

Buoys

A collapsible crab trap or crab net ring which is not attached to a pier, wharf, or boat must be marked with a buoy bearing the owner's DNR identification number (if recreationally crabbing in the Chesapeake Bay or its tidal tributaries), name and address (if recreationally crabbing in the Atlantic Ocean, its coastal bays, or their tidal tributaries), or commercial license number. (*Id.* § 08.02.03.06.06(D)).

Each commercial crab pot individually set must be marked with a buoy that is easily visible on the surface. Each string of pots must be marked at each end with a buoy that is easily visible on the surface. Each buoy must be clearly marked with the identification number of the licensee in letters at least 2 inches high, and, if the buoy is attached to a string of crab pots, with the number of pots in the string. The DNR may require individual numbered markers supplied by the DNR to be attached to every buoy. (*Id.* § 08.02.03.07(D)(5)).

For trotlines, floats must be marked with a buoy bearing the owner's DNR identification number (if recreationally crabbing in the Chesapeake Bay or its tidal tributaries), name and address (if recreationally crabbing in the Atlantic Ocean, its coastal bays, or their tidal tributaries), or commercial license number. (*Id.* 08.02.03.03.03(E)(4)).

Other gear

Nonactive line fishing gear (defined as bank poles and bush-bobs) must be marked with the individual's name and address or DNR identification number. (*Id.* § 08.02.25.02(D)(2)).

Jugs must be marked with the individual's DNR identification number. (*Id.* § 08.02.25.03(D)(3)(d)).

Does this state have requirements for attending gear?

Nets must be attended when taking striped bass with drift gill nets. (*Id.* § 08.02.15.07(C)(2)).

Are there prohibitions on "molesting" gear? If so, is "molesting" defined?

A person cannot molest, disturb, destroy, or catch and carry away fish belonging to another person from any boat, live box, crab pot, trot line, or the pocket or crib of any pound net or enclosed or gilled in any fish net of any kind, or take or carry away any net or gear belonging to another person used in catching fish. This prohibition does not apply directly or indirectly to seine haulers actually engaged in laying and taking up nets when making a haul. (MD. CODE § 4-505).

A person cannot fasten, tie, or anchor any boat to or in any other way interfere with any other person's fishing nets, stakes, or other personal property in or close to the waters of the State. (*Id.* § 4-506).

A skipper, captain or other person commanding a vessel, float, or boat cannot pass knowingly, wantonly, maliciously, or as a result of gross negligence, through any net lawfully placed and marked. Any person who violates this section is guilty of a misdemeanor and upon conviction is subject to a fine equal to the damages suffered by the owner or occupier of the fishery, and court costs. (*Id.* § 4-508).

Except during an emergency, a person cannot fasten, tie, or anchor a boat to another person's commercial fishing equipment or device including the hedging, stakes, buoys, or anchors of the equipment or device. (*Id.* § 4-514).

Are there any requirements that fishermen remove gear?

All crab pots must be removed from the waters of the Chesapeake Bay and its tidal tributaries by December 31 of each year. All crab pots must be removed from the waters of the coastal bays of the Atlantic Ocean and their tidal tributaries if set for commercial purposes, by November 16 of each year; or, if set for recreational purposes, by December 31 of each year. (MD. CODE REGS. § 08.02.03.07(C)).

A lobster trap must be removed from the water no later than February 14th of each year. (*Id.* § 08.02.08.10(E)).

A drift gill net cannot be set before 3 a.m. and must be retrieved and in the boat by 6 p.m. Furthermore, except for the last Saturday and Sunday of the month of February, a drift gill net cannot be set on Saturday or Sunday. (*Id.* § 08.02.15.07(C)(4) & (5)).

Who can remove derelict or abandoned fishing gear?

No entity is expressly authorized, although the DNR has worked with NOAA on pilot DFG removal programs.

Are there closed periods to facilitate the removal of gear?

No provisions were found.

What are the procedures for removing gear?

No provisions were found.

Are there other relevant definitions/laws/regulations for derelict or abandoned property?

Abandoned Vessels

“Abandoned vessel” means any vessel that:

- Is left illegally or has remained without permission for more than 30 days on public property, including public marinas, docks, or boatyards;
- Has remained either at a private marina or property operated by a private marina, or a private boatyard or property operated by a private boatyard for more than 90 days without the consent of the owner or person in control of the property;
- Has remained either at a private dock or at or near waters’ edge on private property for more than 30 days without the consent of the owner or person in control of the property;
- Has remained on private property other than the private property described in MD. CODE § 8-721 (2) and (3) for more than 180 days without the consent of the owner or person in control of the property; or
- Has been found adrift or unattended in or upon the waters of the State, and is found in a condition of disrepair as to constitute a hazard or obstruction to the use of the waters of the State or presents a potential health or environmental hazard. (MD. CODE § 8-721).

In general, the DNR may seize, remove, and take into custody any abandoned vessel. For this purpose, the DNR can use its own personnel, equipment, and facilities or use other persons, equipment, and facilities for removing, preserving, or storing abandoned vessels. The DNR will not be held liable for any damage to an abandoned vessel that might occur during removal, storage, or custody of the vessel. (*Id.*)

Aquaculture

Aquaculture leaseholders are required to permanently and individually mark all equipment or manmade material used on the lease with the lease number and name of the leaseholder. Further, they are required to “be responsible and liable for equipment, gear, or aquaculture-related material that has been found adrift or unattended outside the boundaries of the lease area.” (MD. CODE REGS. § 08.02.23.07)

Massachusetts

Does the state legally define derelict fishing gear?

Massachusetts's regulations refer to "ghost gear" in reference to its interaction with mobile gear fishing. For this purpose, ghost gear is defined as "any fixed fishing gear including but not limited to gillnets with their flyers and floats and lobster pots with their buoys and line, which are no longer buoyed to the surface of the water, are not visible from the surface and become entangled with mobile gear." (322 MASS. CODE REGS. 4.06(1)).

"To Abandon" or "To Store" means to leave fixed gear in the water without hauling it at least every 30 days or in prohibited areas during prohibited periods. 322 MASS. CODE REGS. §§12.02-12.03). This applies to any fixed gear at any time. However, it is most enforceable during gear haul-out periods.

What are the state requirements for marking fishing gear?

Traps

Lobster traps, fish pots and conch pots fished by commercial fishermen must be marked with trap tags in accordance with 322 MASS. CODE REGS. 6.31.

Any person taking green crabs must mark all traps, gear and buoys in a uniform manner in accordance with requirements set forth by the Division of Marine Fisheries (DMF). (MASS. GEN. LAWS ANN. ch. 130, § 37A).

All buoys, pots, traps, and lobster cars must be marked with the licensee's number assigned to him by the DMF, which must be burned or cut into the surface. (MASS. GEN. LAWS ANN. ch. 130, § 38, 322 MASS. CODE REGS. 4.13(4)(a)).

For individuals lobstering commercially with scuba in state waters, the scuba tank and floating marker must display permit numbers. Permit numbers must be not less than 3 inches in height nor less than 1/2 inch in thickness or width of line (MASS. GEN. LAWS ANN. ch. 130 § 38; 322 MASS. CODE REGS. 4.16).

All buoys set by non-commercial lobster and crab trap fishermen must be marked with the letter "N" prior to the permit number assigned by the DMF then a dash (-) with a single digit from 0 – 9 must follow the permit number indicating the sequential pot number in the series up to ten traps. This identification method must be permanently secured to the inside of the pot through the use of a synthetic plate or by being burned or cut into a wooden lath. (322 MASS. CODE REGS. 4.13(4)(a)(iii)).

For both commercial and non-commercial trap gear, permit numbers must not be less than 1/2 inch in height nor less than 1/8 inch in thickness or width of line. Said numbers must be burned or cut into a wooden lath or a plate made of durable synthetic material, which must be permanently secured to the inside of the trap.

322 MASS. CODE REGS. 4.13(4) establishes the following minimum requirements for the marking of fixed pot trawls and single pots within state waters:

- Single traps shall be marked with a single 7 x 7 or 5 x 11 buoy. Sticks are optional but must not bear a flag.
- The east end of a pot trawl must be marked with a double buoy, consisting of any combination of two 7 x 5 inches or 5 x 11 inches buoys and one or more three foot sticks. The west end of a pot trawl must be marked with a single 7 x 7 inches or 5 x 11 inches buoy with a three-foot stick and a flag. Single pots must each be marked with a single 7 x 7 inches or 5 x 11 inches buoy with a three-foot stick and a flag. There is an exemption for Greater Boston Harbor that allows trawls to be marked on one end with a plastic bottle and a buoy of 7 x 7 or 5 x 11 must be used to mark the other end.
- Singles fished in LCMA1 are to be marked with three 12-inch marks located at top, middle and bottom of buoy line. Each mark is to be composed of 6 inch of red and 6 inch of white.
- Singles fished in LCMA2 are to be marked with three 12-inch marks located at top, middle and bottom of buoy line. Each mark is to be composed of 6 inch of red and 6 inch of black.
- Singles fished in OCCLCMA are to be marked with three 12-inch marks located at top, middle and bottom of buoy line. Each mark is to be composed of 6 inch of red and 6 inch of yellow.
- Trawls in LCMA1, 2 and OCC are to be marked with three 12-inch red marks located at the top, middle and bottom of the buoy line.
- Trawls in LCMA3 are to be marked with three 12-inch black marks located at the top, middle and bottom of the buoy line.
- Recreational lobster and crab traps are to be marked with a 4-inch red mark midway on the buoy line.
- Exception: If line is same color as mark, white may be substituted.

All fish pots and conch pots and the buoys of individual fish and conch pots or pot trawls must be marked in accordance with 322 MASS. CODE REGS. 4.13: Fixed Gear Marking and Maximum Length Requirements. (322 MASS. CODE REGS. § 6.12).

Nets

322 MASS. CODE REGS. 4.13 establishes the following minimum requirements for the marking of fixed gillnets within state waters:

- The east end of a gillnet must be marked with a high flyer and standard 12-inch tetrahedral corner radar reflector; the west end must be marked with a high flyer with flag and a standard 12-inch tetrahedral corner radar reflector;
- The buoy line must be marked with three 12 inch green marks located at the top, middle and bottom of the buoy line. If the line used is green the marks must be white.
- All buoys must be permanently and visibly marked or branded with the permit number of

the owner.

All buoys for surface gillnets must be marked with reflective tape. The holder's permit number must be marked on all buoys and at least once every 50 feet on the headrope. Holders may burn or carve their number into floats attached to the headrope and must measure at least 1/2 inch in height; alternatively if permit holders opt to mark the net with synthetic durable material, then the numbers must be clearly visible and measure at least 1/4 inch in height. The net ends must be marked with bullet-shaped buoys with a size of 9 x 16 inches and clearly marked with the letters SGN and the six-digit permit number of the holder. (322 MASS. CODE REGS. 4.14(b)).

Boston Harbor

Within Boston Harbor and its approaches, it is lawful to fish with trawls marked on one end with a plastic bottle attached by at least ten feet of 1/2 inch cotton line or similar light material, provided that said substitute buoy must be painted with the buoy colors and permit number of the owner. A standard buoy as specified in 322 MASS. CODE REGS. 4.13(3)(b) must be attached to the other end of the trawl, except that sticks need not be used. Single pots must be marked with a standard buoy attached by light line in channel areas. (322 MASS. CODE REGS. 4.13(3)(c)).

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

Other gear

Any person who constructs or maintains any weir, pound net or fish trap after having received written approval therefor as provided in section twenty-nine must at all times while such structure is maintained have the same plainly marked with the number of such approval painted or printed on a sign or flag in figures at least six inches in height and conspicuously displayed on the inshore and offshore ends of such structure. Violation of the provisions of this section will be punished by a fine of not more than \$25. MASS. GEN. LAWS ANN. ch. 130, § 30.

Additional requirements for fishing weirs:

- Weirs with one head must 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 must 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.
- Weirs with two heads must 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 must 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.

- All buoys must be 12 inches diameter, orange, inflated balls marked with the weir number assigned by DMF. A weir with one head must be marked with five buoys. A weir with two heads must be marked with seven buoys. (322 MASS. CODE REGS. 4.04).

Does the state have requirements for attending gear?

Fishermen setting or fishing surface gillnets must remain within 200 feet of the net at all times. (322 MASS. CODE REGS. 4.14).

Traps must be hauled every 30-days or be considered abandoned. (*Id.* §§12.02-12.03).

Are there prohibitions on “molesting” gear? If so, is “molesting” defined?

It is illegal for anyone, except the owner, to handle, destroy or molest any lobster or crab pot or other fishing gear, including any gear swept upon the shore, beaches or flats whether public or private, or to take fish therefrom (MASS. GEN. LAWS ANN. ch. 130, § 31).

- **Exception:** Any vessel with mobile gear whose gear becomes entangled with ghost gear may haul said ghost gear on board for the purpose of identification and return to the rightful owner, if authorized in writing by said owner (322 MASS. CODE REGS. 4.06)

The owner of any fishing gear which is swept ashore by storm or tide or other natural causes and deposited upon the shore, beaches or flats, whether public or private, may recover the same within 30 days from the time of such deposit without liability for trespass; provided, that such owner in so doing does not commit any unreasonable or wanton injury to the property whereupon such fishing gear is deposited. (MASS. GEN. LAWS, ch. 130, § 32).

- If the gear is not recovered by the owner as detailed above or recovered by other legal means within 60 days it becomes the property of the riparian owner of such shore, beach or flat.

Are there any requirements that fishermen remove gear?

There are haul out periods for trap gear and gillnets. See 322 MASS. CODE REGS.4.09, 4.11, 6.12 and 12.04.

Who can remove derelict or abandoned fishing gear?

All buoys, pots, traps, and lobster cars that are not marked as required must be removed from the coastal waters by any officer who is empowered to enforce state fisheries regulations (usually performed by DMF and law enforcement) and will be held for up to six months. If the owner of any such buoy, pot, trap or lobster car fails to claim the gear within six months it will be permanently confiscated and disposed of by the DMF of law enforcement or his designee for the

best interest of the commonwealth. The DMF may in no way be liable for such removal, confiscation or disposal.

It will be prima facie evidence of a violation of this section if a person has in his possession or uses any buoy, pot, trap or lobster car, that has had the license number removed, altered or defaced. (MASS. GEN. LAWS, ch. 130, §§ 12, 38).

Are there closed periods to facilitate the removal of gear?

Closed periods requiring gear removal are noted below, although the closures are not specifically in place to facilitate DFG removal.

Fishing for lobster with pots or traps is prohibited in the Outer Cape LCMA from February 1st through April 30th. Fishermen are required to remove all lobster traps from waters of the Outer Cape LCMA as defined in 322 MASS. CODE REGS. 6.33 during this closed period. It is unlawful for any fisherman authorized to fish traps in the Outer Cape LCMA to fish, set, or abandon any lobster traps in the Outer Cape LCMA or any other LCMA during this seasonal closure. (322 MASS. CODE REGS. 6.02, 12.04, 12.11).

From December 15th through April 14th it is unlawful for any person to take whelks by pots or set, haul, tend or abandon conch pots in the waters under the jurisdiction of the Commonwealth. (322 MASS. CODE REGS. 6.12).

It is unlawful to set, haul, tend or abandon black sea bass pots in the waters under the jurisdiction of the Commonwealth during the period that:

- Begins three days following the effective quota closure date for the commercial black sea bass fishery, as specified in the Declaration of Closure notice published in accordance with 322 MASS. CODE REGS. 6.41; and
- Ends on the Saturday prior to the first Tuesday in August. (322 MASS. CODE REGS. 6.12).

It is unlawful to set, haul, tend or abandon scup pots in the waters under the jurisdiction of the Commonwealth during the period that:

- Begins on November 4th or three days following the effective quota closure date of the commercial scup fishery, as specified in the Declaration of Closure notice published in accordance with 322 MASS. CODE REGS. 6.41, whichever occurs first; and
- Ends on April 28th. (322 MASS. CODE REGS. 6.12).

Conch pots must be hauled out from Dec. 15 – April 14. (322 MASS. CODE REGS. 6.12(2)(a)).

Single traps are prohibited north of Cape Cod seaward of 3 miles from the mean low tide water mark, except for an area bounded by Loran C Line 9960-x-25360 as it runs from Wellfleet to Barnstable. (322 MASS. CODE REGS. 12.06).

Gillnets may not be set in Critical Habitat from January 1 – May 15. Gillnets may not be set south of Cape Cod April 1 – Nov 15. Gillnets may not be set in area outside Boston Harbor from May 15 – Nov 1. (322 MASS. CODE REGS. 12.00 and 4.09 and 4.11).

What are the procedures for removing gear?

Beach cleanups may be done in coordination with the Massachusetts Office of Coastal Zone Management (CZM). Cleanup coordinators identify the areas to be cleaned up, publicize the cleanup locally, receive supplies, give cleanup instructions and distribute materials to cleanup volunteers, oversee the cleanup, and arrange for proper trash disposal.

The Division of Marine Fisheries will issue a letter to authorize gear removal within state waters. The letter must be kept aboard the vessel used in cleanup and those participating in the cleanup must accommodate DMF staff upon request.

- No fishing gear properly marked with a surface system may be removed from the water.
- All traps and nets and associated components removed from the water shall be – to the degree possible - inventoried and described regarding gear type, fishery, and owner.
- Any intact nets or traps that are fish-able must be turned over to DMF. All traps and nets that are not intact will be considered trap or net debris and may be disposed of by the organization performing the cleanup after a detailed inventory is generated for transmittal to DMF at the end of the year.
- Final report of all activities and detailed list of gear and trap or net debris must be furnished to DMF by a certain time. (letter from DMF, on file with author).

Are there other relevant definitions/laws/regulations for derelict or abandoned property?

Abandoned Vessels

Abandoned vessel means unoccupied, deserted, forsaken, derelict, wrecked or sunken vessel or other shipwrecked property, on the shores or waters of the Commonwealth and not in the custody of the owner or his agent or of any other person lawfully authorized to take possession of the vessel and deemed by the Department of Conservation and Recreation or the harbormaster of the city or town, in whose jurisdiction the vessel lies or whomsoever is so empowered by said city or town, to be an obstruction to the safe and convenient navigation or other lawful use of such waters. (MASS. GEN. LAWS, ch. 91 § 38).

Aquaculture

MASS. GEN. LAWS, ch. 130 § 61 covers marking of license sites. Sites must be marked by stakes or buoys with number of license painted in figures 2 inches high in conspicuous place on each side or on flags attached thereto. Failure to maintain shall be sufficient cause for revocation. This may be further managed and enforced by the municipality through town bylaws.

New Hampshire

Does the state legally define derelict fishing gear?

New Hampshire does not legally define “derelict fishing gear.”

What are the state requirements for marking gear?

Traps

All pots or traps left unattended must be marked in the following manner:

- All fixed gear must have the name of the owner permanently affixed.
- Pot or trap trawls must be marked at each end with at least a single buoy made of highly visible material;
- Flags and pennants affixed to buoys marking a string of gear as required by N.H. CODE ADMIN. R. ANN. FIS § 602.09 must be of uniform color;
- Weak links with a maximum breaking strength of 600 pounds must be used on all flotation and/or weighted devices attached to the buoy line of all other fixed gear set seaward of 72 COLREGS demarcation line and seaward of Hampton and Rye and Hampton Harbor entrances; and
- Groundlines between traps must be sinking for all gear set seaward of 72 COLREGS demarcation line and seaward of Hampton and Rye and Hampton Harbor entrances.
- Vertical lines used for lobster trap/pot set seaward of 72 COLREGS demarcation line and seaward of Hampton and Rye and Hampton Harbor entrances must be permanently and clearly marked with a red color at least three times (top, middle, bottom) along the vertical line and each mark must be 12-inch (30.5 cm) in length. The red color may be dyed, painted, or marked with thin colored whipping line, thin colored plastic, heat-shrink tubing, or other durable material. Alternatively, a thin red line may be woven into or through the vertical line.
- No person or vessel may fish with trap/pot gear set seaward of 72 COLREGS demarcation line and seaward of Hampton and Rye and Hampton Harbor entrances that has any portion of the buoy line floating at the surface at any time when the buoy line is directly connected to the gear at the ocean bottom. If more than one buoy is attached to a single buoy line, or if a high flyer and a buoy are used together on a single buoy line, floating line may be used between these objects. (N.H. CODE ADMIN. R. ANN. FIS § 602.09).

A lobster trap tag must be:

- Securely attached to the frame of the lobster trap, in a manner for which it was designed such as a self-locking mechanism;
- Legible and clearly visible for inspection; and
- Not altered or defaced. (*Id.* § 602.16.)

Nets

All nets left unattended must be marked in the following manner:

- All fixed gear must have the name of the owner permanently affixed.
- High flier buoys, as customarily used on longline gear, must be marked with the name of the owner;
- Gill nets and longline sets 6,000 feet or less must be buoyed on each end to support a vertical shaft at least 5 feet high with a radar reflector of at least 100 square inches reflective area;
- Flags and pennants affixed to buoys marking a string of gear as required by N.H. CODE ADMIN. R. ANN. FIS § 602.09 must be of uniform color;
- Weak links with a maximum breaking strength of 1100 pounds must be used in gillnet panels and on all flotation and/or weighted devices attached to the buoy line of gillnets set seaward of 72 COLREGS demarcation line and seaward of Hampton and Rye and Hampton Harbor entrances;
- Weak links with a maximum breaking strength of 600 pounds must be used on all flotation and/or weighted devices attached to the buoy line of all other fixed gear set seaward of 72 COLREGS demarcation line and seaward of Hampton and Rye and Hampton Harbor entrances; and
- Groundlines between traps or gillnet panels must be sinking for all gear set seaward of 72 COLREGS demarcation line and seaward of Hampton and Rye and Hampton Harbor entrances.
- Vertical lines used for gill net gear set seaward of 72 COLREGS demarcation line and seaward of Hampton and Rye and Hampton Harbor entrances must be permanently and clearly marked with a red color at least three times (top, middle, bottom) along the vertical line and each mark must be 12-inch (30.5 cm) in length. The red color may be dyed, painted, or marked with thin colored whipping line, thin colored plastic, heat-shrink tubing, or other durable material. Alternatively, a thin red line may be woven into or through the vertical line. (N.H. CODE ADMIN. R. ANN. FIS § 602.09).

Buoys

No person may set any pot or trap for any lobster or crab without having the buoy attached, plainly carved or branded with his last name and initials. Any car or other contrivance for holding or keeping lobsters or crabs set in any tidal water must be plainly marked with the last name and initials carved or branded. Any pots, traps, cars or other contrivance used to catch or store lobsters or crabs in violation of this requirement will be forfeited. (N.H. REV. STAT. ANN. § 211:32).

Each applicant for a lobster and crab license must state the color scheme or other special markings of the buoys desired to be used by him. These colors, if approved by the executive director, must be in his license, and all buoys used by the licensee must be marked accordingly. (N.H. REV. STAT. ANN. § 211:33). Anyone fishing unattended pots or traps must conform with this requirement. (N.H. CODE ADMIN. R. ANN. FIS § 602.09).

No pot, trap or other contrivance for taking or holding lobsters or crabs may be set or buoyed other than plainly and separately except as provided. When pots, traps, or other contrivances are set on trawls, buoys plainly marked as provided in N.H. REV. STAT. ANN. 211:32 and 33 must be

set on both ends of the trawls. Pot or trap trawls used for taking lobsters and crabs which contain less than 5 pots or traps may be plainly marked on one end. (N.H. REV. STAT. ANN. § 211:34).

Other gear

For the take of whelk to resale:

- One pot, trap or other contrivance for taking or holding whelks must be fished on a single line and buoy;
- When pots, traps, or other contrivances are set on trawls, buoys plainly marked must be set on both ends of the trawl;
- Each buoy and trap must be permanently marked with the letter “W” and the first initial and complete last name of the licensee. (N.H. CODE ADMIN. R. ANN. FIS § 607.04).

Does the state have requirements for attending gear?

To set or use nets or weirs in the Lamprey River, the permittee must be in attendance at all times. (N.H. REV. STAT. ANN. § 211:48-b).

Trap/pot gear must be hauled at least once every thirty days. (N.H. CODE ADMIN. R. ANN. FIS § 602.09).

Any person using a gill net to take finfish from the waters of the Great Bay estuarine system inland of the Memorial Bridge in Portsmouth, Little Harbor and its tributaries inland of its most seaward jetty, Rye Harbor and its tributaries inland of its most seaward jetty, and inland of the Hampton Harbor Bridge must be within unaided eyesight of the net. Unaided eyesight means unaided by devices such as binoculars or spotting scope. (*Id.* § 602.06).

Are there prohibitions on “molesting” gear? If so, is “molesting” defined?

No person, except the owner or a conservation officer, may take up, lift, molest, have in his possession, or transfer any pot, trap, car or other contrivance that is set for the taking or holding of lobsters or crabs, nor take, remove or carry away from the beach or shore, any such pot, trap, car or other contrivance or warp or buoy without the written permission of the owner. In addition to the penalty for violation of this section, said person, if he holds a license, must lose said license for one year. (N.H. REV. STAT. ANN. § 211:31).

It is unlawful for any person, except the executive director of the New Hampshire Fish and Game Department or his agent, to molest, pull, tend, or to otherwise disturb any minnow or sucker trap, net, seine, bait house, or other gear of any licensed bait dealer without the written permission of the owner. (N.H. REV. STAT. ANN. § 214:34-c; N.H. CODE ADMIN. R. ANN. FIS § 602.09).

No person licensed in accordance with N.H. REV. STAT. ANN. § 211:18 may fish with, raise, or possess on board a vessel or submerged within the waters of New Hampshire, a lobster trap without a valid lobster trap tag affixed to the trap and issued to said person except:

- Helpers licensed in accordance with N.H. REV. STAT. ANN. § 211:20; or
- A surrogate lobster licensee in the case of a temporary physical disability as specified in N.H. CODE ADMIN. R. ANN. FIS § 602.14 who may fish with, raise, or possess lobster traps with lobster tags not issued specifically to them. (N.H. CODE ADMIN. R. ANN. FIS § 602.16).

Are there any requirements that fishermen remove gear?

The taking of lobsters and crabs in Rye Harbor by any person is prohibited. No lobster or crab trap buoys may be placed in the harbor or the approach channel to the harbor. A fisherman has 24 hours to remove his or her gear from restricted areas after an authorized enforcement officer makes a verbal request to the fisherman to remove said gear. An extension may be granted in the case of rough seas or thick fog. State conservation officers and others appointed by the Pease Development Authority, Division of Ports and Harbors enforce these provisions, and may remove gear from the restricted area if the verbal request is ignored. (N.H. REV. STAT. ANN. § 211:19-a).

Any person whose license has been suspended must within 5 days remove from the waters all lobster traps, pots, cars, or any device used in taking or storing of lobsters and crabs. These lobster traps, pots, cars or devices must be taken to a place of storage on the shore and must be inspected by a conservation officer and such traps, pots, cars or devices must not be placed in the water again by any other person until they have been inspected by a conservation officer and rebranded with the last name and initials of the new user in a manner satisfactory to the conservation officer. (N.H. REV. STAT. ANN. § 211:22).

No person must take river herring from the waters of the Lamprey River by any method between sunrise Wednesday and sunrise Thursday of any week. During such period all nets must be removed and a weir must be constructed so that total escapement of all river herring must occur. (N.H. REV. STAT. ANN. § 211:48-c).

Who can remove derelict or abandoned fishing gear?

Any person who purchases a license to take lobster and crabs in waters of the state of New Hampshire must be deemed to have given consent to law enforcement officers to haul, for any purpose, their lobster and crab gear set for the purpose of taking or keeping lobster and crabs within the jurisdiction of the state of New Hampshire. (N.H. REV. STAT. ANN. § 211:18 (I-a)).

Any Fish and Game Department conservation officer may raise, lift or in any way examine any pot, trap, car or other contrivance that is set for the taking or holding of marine species and to seize all pots, traps, cars or other contrivances and the contents thereof used in violation of any law or rule relating to marine species, and to hold the same until the fine and costs imposed for such violation have been paid in full.

- Provided, that in case such fine and costs are not paid within 60 days after imposition such pots, traps, cars or contrivances may be sold at public auction.

- Prior to such sale the department must give notice to the owner, if known, by registered mail; otherwise a notice must be published once in a newspaper of general circulation in the state, giving the time and place of such sale.
- If the owner must appear and must pay the fines and costs and must reimburse NHFGD for expenses incurred, the property will be delivered to the owner; otherwise it must be sold and the proceeds of such sale will be for the use of the NHFGD, unless otherwise authorized by the court exercising proper jurisdiction. (N.H. REV. STAT. ANN. § 211:75).

Are there closed periods to facilitate the removal of gear?

No provisions were found.

What are the procedures for removing gear?

The NHFGD has signed a Memorandum of Agreement with the New Hampshire Department of Resources and Economic Development (NHDRED) that allows NHDRED employees to act as agents of NHFGD to remove derelict gear from beaches and coastal parks of New Hampshire during work hours with certain stipulations:

- The NHDRED staff must be in the appropriate NHDRED uniform and vehicle when disturbing DFG.
- Any living organisms obtained during the cleanup must be released. NHDRED must notify the NHFGD with a report of any DFG removed.
- Unusable DFG or without an identifiable owner must be placed in designated disposal containers.
- DFG with an identifiable owner must be placed in a designated location for return.

Are there other relevant definitions/laws/regulations for derelict or abandoned property?

Abandoned Vessels

No person may abandon any boat at any time on the waters of the state. (N.H. REV. STAT. ANN. § 270-B:1). Any boat found unattended in a sunken, beached, or drifting condition is deemed abandoned by the owner. In the interest of the public safety such boat may be removed and impounded for safekeeping and disposal in accordance with the provisions of N.H. REV. STAT. ANN. § 270. (N.H. REV. STAT. ANN. § 270-B:2).

Aquaculture

No person, except the owner or Department of Fish and Game must molest, pull, tend, possess, or disturb any gear used in a licensed marine aquaculture operation or any marine species raised therein without the written permission of the owner. (N.H. CODE ADMIN. R. ANN. § 807.15).

Rhode Island

Does the state legally define derelict fishing gear?

Although there are provisions for abandoned gear, there is no definition is provided.

What are the state requirements for marking gear?

Traps

The owner of every trap, pot, or other stationary contrivance used for the taking of marine fish, shellfish, crustaceans, or other invertebrates being fished in the waters of the state, and the owner of any trap or pot for catching or cars or other contrivances for keeping lobsters must mark each trap, pot, or contrivance, together with the buoy which is attached to it, with the name or names of the owners of the contrivance or the person or persons using the contrivance, and the license number or numbers of each person or persons. Failure to mark each trap may result in a fine, ranging from \$20-\$500, for each offense and all traps, pots, or other contrivances used contrary to this may be seized by the enforcement officer and the property must be forfeited to the state. (R.I. GEN. LAWS ANN. § 20-4-7; R.I. CODE R. 25-8-4:11.8; R.I. CODE R. 25-8-4:15.1).

For lobster pots, tags must be permanently attached to the trap bridge or central cross member of each trap and be clearly visible for inspection. All lobster trap tags must be a permanent, single-use design. Only lobster trap tags for the current fishing year and the immediate previous or following fishing year must be allowed to remain attached to each lobster trap. (R.I. CODE R. 25-8-4:15.1).

Buoys

Each lobster pot must be separately and plainly buoyed; except that in cases where natural conditions render it impracticable to separately buoy each pot, the Department of Environmental Management (DEM) may, upon application from any person licensed under R.I. GEN. LAWS ANN. § 20-7, grant permission to otherwise buoy those pots subject to rules and regulations promulgated by the DEM; and each and every permit so granted must state the name of the person to whom the permit is granted, the number of the permit, the place or places where the lobster pots are to be located, the manner in which lobster pots must be set, and the period of time during which the permit must extend. (R.I. GEN. LAWS ANN. § 20-7-11).

Each and every pot, trap, or other device used for the taking of lobsters or crabs in any of the waters of Rhode Island must bear a color scheme on the attached buoy. Each applicant for a lobster license must state the color scheme that he or she desires to use. These colors, unless disapproved by the DEM, must be stated in the license, and all buoys used by the licensee must be marked accordingly. (R.I. CODE R. § 20-7-11.1).

All floating fish traps deployed within Rhode Island State waters must be marked with no less than four radar reflective buoys (hi-flyers) each positioned no more than one hundred 100 feet

from the trap or its appurtenances in the following locations: one buoy must be located at the shoreward end of the leader, one buoy on the seaward end of the leader adjacent to the head of the trap, and two buoys must be located on the seaward side of the head of the trap. There are additional detailed requirements listed for gear located at specific geographic sites. (R.I. CODE R. § 25-8-4:14.1).

Nets

In the Narragansett Bay Marine Life Management Area purse seines must be marked with fluorescent-colored float buoys, distinguishable from the other float buoys on the net, at intervals of 50 feet. (R.I. CODE R. § 25-8-4:16.2).

For all gill nets set, hauled, and/or maintained within Rhode Island waters, both the near shore and offshore ends of all gill nets must be marked with an orange or fluorescent orange bullet shaped buoy with a size of 9 x 16 inches and clearly marked with the letters “GN” with a minimum letter height of three inches. No person may set, haul, or maintain a gill net in Rhode Island waters, unless such net must be marked, together with the buoys which are attached, with the name and license number of said person. (*Id.* § 25-8-4:13.3).

There are additional area-specific regulations for areas between one-half and three nautical miles from the Rhode Island Coast.

- Gill nets greater than 600 feet and less than or equal to 1,200 feet must be marked with two orange or fluorescent orange floats with a size of 9 x 16 inches on the westernmost end as measured on a compass circle from magnetic south through west to, and including, north and one orange or fluorescent orange floats with a size of 9 x 16 inches on the easternmost end side as measured on a compass circle from magnetic north through east to, and including, south. In the case of nets set in a due north south line, the two orange or fluorescent orange floats with a size of 9 x 16 inches should be placed on the southernmost end. All orange or fluorescent orange floats with a size of 9 x 16 inches must be marked in accordance with the general marking requirements (*Id.*).
- Gillnets greater than 1,200 feet must be marked with an orange or fluorescent orange float with a size of 9 x 16 inches and a radar reflective highflyer at each end. One of the radar reflective highflyer is to be marked with a flag on the westernmost side as measured on a compass circle from magnetic south through west to, and including, north. The easternmost side as measured on a compass circle from magnetic north through east to, and including, south is to be marked with a radar reflective highflyer that must remain flagless. In the case of nets set in a due north south line, the flag on the radar reflective highflyer should be placed on the southernmost end. Orange or fluorescent orange floats with a size of 9 x 16 inches must be marked in accordance with the general marking requirements (*Id.*).

Does the state have requirements for attending gear?

Each gill net must be hauled once each day (24-hour period - 12:00 midnight to 12:00 midnight). (R.I. CODE R. § 25-8-4:13.3).

Are there prohibitions on “molesting” gear? If so, is “molesting” defined?

No person except the director, enforcement officers, and authorized technical personnel of the Department of Environmental Management may unduly disturb, lift, raise, molest, or remove any animal from a trap, pot, or any other device of a person licensed under Title 20 of R.I. GEN. LAWS ANN. without the written permission of that person. (R.I. GEN. LAWS ANN. § 20-4-8; R.I. CODE R. § 25-8-4:11.9; R.I. CODE R. § 25-8-4:15.1).

No person except the DEM, enforcement officers, and authorized technical personnel of the DEM must place, set, keep, maintain, sell, transfer, or have in his or her possession, any pot, trap, car, or any other device used in taking or holding lobster or crabs, nor take, remove, or carry away from the beach or shore any pot, trap, car, or other device or line (warp) or buoy without the written permission of the their owner. Every person convicted of violating this provision may be fined not more than \$1,000 for each offense, or be imprisoned not exceeding one year, or both, and each pot, trap, car, or device used in violation of this section must constitute a separate offense. In addition, if that person is licensed, his or her license must be revoked for one year. (R.I. CODE R. § 20-7-12.1).

Any person who willfully or maliciously cuts, removes, displaces, tampers with, or in any way damages any trap, leader, or pound set by virtue of the permit provided for by this chapter must be imprisoned not exceeding two years or fined not exceeding \$1,000, or both. (R.I. GEN. LAWS ANN. § 20-5-18).

No person except the DEM may place, set, keep, maintain, sell, transfer, or have in his or her possession any pot, trap, car, or any other device used in taking or holding lobster or crabs, nor take, remove, or carry away from the beach or shore any pot, trap, car, or other device or line (warp) or buoy without the written permission of the owner. (R.I. CODE R. § 25-8-4:15.1).

No person may place, set, lift, raise, unduly disturb, draw in, or transfer any pot, trap, or other device used for the taking of lobsters unless the color scheme of the attached buoy is the same as the color scheme that is on file with the license application and displayed on the boat used by that person, or unless that person is duly licensed and possesses written permission from the rightful owner of the pot, trap, or other device. (*Id.* § 20-7-11.1(b)).

No person may set, maintain, or have in his or her possession any lobster pots from which the branded numbers have been altered, obliterated, or removed, with the intent to defraud or deprive the owner. Every person convicted of violating the provision of this section may be fined \$100 for each of these traps or be imprisoned not more than thirty days, or both. All pots used or possessed contrary to these provisions may be seized by any officer engaged in the enforcement of this chapter, and that property must be forfeited. (R.I. GEN. LAWS ANN. 20-7-12; R.I. CODE R. § 25-8-4:15.1).

No person may have on board a vessel or set, deploy, place, keep, maintain, lift, or raise; from, in, or upon the waters under the jurisdiction of the State of Rhode Island any lobster port for taking of American lobster without the pot having a valid State of Rhode Island lobster trap tag. (R.I. CODE R. 25-8-4:15.1).

Are there any requirements that fishermen remove gear?

Upon ceasing to use any fish trap as authorized, that structure must at once be removed by the owner at the owner's expense and to the satisfaction of the director of DEM. Failure to remove it is considered sufficient grounds for prosecution of the owner for maintaining a public nuisance or for revocation of the fish trap permit. Unless otherwise specified by regulations adopted by the Marine Fisheries Council, all authorized fish may be completely removed by or before the last day of December of each year; and no fish trap must be reset before the first day of the following March. All submerged or broken stakes must be promptly removed. Any fish trap damaged or allowed to get into a dilapidated condition will be regarded as abandoned unless promptly removed or rebuilt. Failure to do this will subject the owner to prosecution and forfeiture of the trap. (R.I. GEN. LAWS ANN. § 20-5-14).

Who can remove derelict or abandoned fishing gear?

The Department of Environmental Management may take possession of any abandoned fish trap and appurtenances; or any fish trap and appurtenances placed in a location for which no permit has been obtained; or any fish trap and appurtenances for which a permit location has been obtained but which the owner of the fish trap and appurtenances may willfully maintain in a wrong position or location. (R.I. GEN. LAWS ANN. § 20-5-15).

Are there closed periods to facilitate the removal of gear?

No provisions were found.

What are the procedures for removing gear?

Upon possession, the Department of Environmental Management may destroy the fish trap and appurtenances or may dispose of them at public auction to the highest bidder, first giving notice of the time and place of sale by publishing the notice at least three times a week for two successive weeks in a newspaper of general circulation with power to adjourn the sale from time to time, giving like notice of the adjournment; and make and execute to the purchaser at the sale a good and sufficient conveyance of all right, title, and interest in and to the fish trap and appurtenances; and to receive the proceeds of the sale and pay the proceeds into the treasury of the state; and the state controller must draw orders upon the general treasurer for the payment of all expenses of taking possession and disposing of a fish trap and any appurtenances, upon receipt by him or her of proper vouchers, approved by the DEM, and the general treasurer must pay the orders out of moneys appropriated for that purpose. (R.I. GEN. LAWS ANN. § 20-5-15).

Are there other relevant definitions/laws/regulations for derelict or abandoned property?

Abandoned Vessels

“Abandoned Vessel” is defined as a vessel that has been left, moored, or anchored in the same area without the express consent, or contrary to the rules of, the owner, manager, or lessee of the submerged lands or waters below or on which the vessel is located for more than 45 consecutive days or for more than a total of 90 days in any 365 day period, and the vessel’s owner is: unknown or cannot be located; or known and located but is unwilling to take control of the vessel. Examples of abandoned vessels may, include, but are not limited to, the following:

- Any vessel that is left unattended or has remained illegally on public property, including docks, boat launching ramps, or moorings for more than forty-five days.
- Any vessel that has been found adrift or unattended in or upon the waters or submerged lands of the state of Rhode Island, and is found in a condition of disrepair as to constitute a hazard or obstruction to the use of the waters and submerged lands of the state or presents a potential health or environmental hazard. (R.I. GEN. LAWS ANN. § 46-6-8.1(1)).

Derelict Vessel is a vessel whose owner is known and can be located, and who is able to exert control of a vessel that:

- Has been moored, anchored, or otherwise left in the waters or submerged lands of the state or on public property contrary to the rules adopted by an authorized public entity;
- Is sunk or in danger of sinking;
- Is obstructing a waterway; or
- Is endangering life or property. (R.I. GEN. LAWS ANN. § 46-6-8.1(4)).

Aquaculture

No provisions regarding abandoned aquaculture equipment were found.

Virginia

Does the state legally define derelict fishing gear?

There is no Virginia law or regulation defining derelict fishing gear.

What are the state requirements for marking gear?

In general, license tags or identification numbers must be attached and displayed in the following manner:

- License tags for fixed fishery devices, including pound nets, fyke nets, crab traps, and staked gill nets, must be fastened to one of the offshore stakes.
- Identification numbers when issued for particular devices must be applied by the license holder and must be in place at all times when the gear is deployed. (VA. CODE ANN. § 28.2-234(A)(1), (5)).

Traps

All crab or eel pots must display an identification number on the float or stake attached to the pot. (*Id.* § 28.2-712).

Any person owning or using an eel pot, for which a commercial license is prescribed by law, must display a Marine Resources Commission identification number preceded by the letter “E” on each floating buoy or stake attached to each such eel pot, in a legible and visible manner. (4 VA. ADMIN. CODE § 20-140-15).

Any person owning or using a fish pot must display and maintain a current identification number, preceded by the letter “F” on each floating buoy or stake attached to each such fish pot, in a legible and visible manner. (*Id.* § 20-140-20).

Commercial fishermen setting crab pots must display their Marine Resources Commission identification number, preceded by the letter “C,” on each floating buoy or stake attached to each crab pot. (*Id.* § 20-140-25(A)).

Commercial fishermen setting peeler pots, must display their Marine Resources Commission identification number, preceded by the letter “P,” on each floating buoy or stake. (*Id.* § 20-140-25(B)).

Nets

License tags for anchored gill nets and drift gill nets must be fastened to a flagstaff or a buoy that is visible from the surface. (VA. CODE ANN. § 28.2-234(A)(2)).

Drift and anchored gill nets must be marked in the following manner:

- One end of each gill net must be marked by a flag of square dimensions, which should measure at least 144 square inches.

- The end of each gill net opposite the square flag marker must be marked by either a triangular flag of at least 144 square inches or a floating ball of at least 50 inches circumference.
- Each flag described in 4 VA. ADMIN. CODE § 20-430-20(1), (2) of this section must be supported on a staff sufficient to maintain the bottom of the flag at least three feet above the surface of the water.
- The end-marker flags on the same net or flag and floating ball on the same net must be identical in color.
- All flag staffs must be marked with two stripes of two-inch wide reflective material that should be visible from all sides; all end-marker floating balls shall be marked on three sides with patches of approximately two-inch by two-inch reflective material that shall be visible from all sides above the water line. (4 VA. ADMIN. CODE § 20-430-20).

Staked gill nets must be marked in the following manner:

- Both ends of each staked gill net must be marked by a flag of square dimensions, which shall measure at least 144 square inches.
- Each end-marker flag described in 4 VA. ADMIN. CODE § 20-430-30(1) must be suspended on a pole or stake at least two feet above the surface of the water.
- All end-marker flags shall be of blaze-orange color.
- Each pole or stake in a gill net stand must be marked at least two feet above the surface of the water, and visible from all sides, with either reflectors (at least two inches in diameter) or reflective tape (at least two inches wide). (*Id.* § 20-430-30).

During the period December 1 through March 15, it is illegal for any person to place, set or fish any gill net, used for the taking of white perch or striped bass in the areas designated below, that is not marked as described by either 4 VA. ADMIN. CODE § 20-430-20 or 4 VA. ADMIN. CODE § 20-430-30, or in the following manner:

- Both ends of each gill net must be marked by a floating buoy of at least 3.5 inches in diameter.
- Both end-marker buoys must be blaze-orange color.
- Areas designated:
 - James River. Upstream from a line connecting College Creek and Hog Point.
 - York River. Upstream from a line connecting the southernmost point of the northern headland of Poropotank Bay and Croaker Landing.
 - Rappahannock River. Upstream from a line connecting Greenvale Creek and Weeks Creek. (*Id.* § 20-430-40).

It is unlawful for any person to place, set or fish any anchored gill net up to 110 feet in length and licensed for recreational purposes upstream of the designated boundary lines listed below that is not marked in the following manner:

- Both ends of each gill net must be marked by a floating buoy of at least 3-1/2" in diameter.
- Both end-marker buoys must be blaze-orange color.
- Designated boundary lines:
 - James River and its tributaries: a line connecting Hog Point and the downstream point of the mouth of College Creek;

- York River and its tributaries: the Route 33 bridges; and
- Rappahannock River and its tributaries: the Route 360 Bridge. (*Id.* § 20-430-45).

During the period February 15 through May 31, inclusive, it is unlawful for any person to place, set, or fish any drift gill net, in the areas designated below, that is not marked in the following manner:

- Both end-marker buoys and all floats or buoys between the ends must be blaze orange or fluorescent paint color.
- Areas designated:
 - James River: Upstream of the Jamestown Ferry Docking Station.
 - Mattaponi and Pamunkey Rivers: Upstream of the Route 33 bridges at West Point.
 - Rappahannock River: Upstream of the Route 360 bridge at Tappahannock. (*Id.* § 20-430-50).

Buoys

Any gill net placed, set or fished in accordance with 4 VA. ADMIN. CODE 20-430-20, 4 VA. ADMIN. CODE 20-430-40 or 4 VA. ADMIN. CODE 20-430-50 must have both buoys inscribed with the last four numbers of the licensee’s commercial fisherman registration license. (4 VA. ADMIN. CODE § 20-430-55).

Buoys of any eel pot, gill net or ordinary crab trot line used for recreational purposes must be marked with the licensee’s last four numbers of his social security number or driver’s license number, preceded by the letter “R.” An offshore stake of any crab trap used for recreational purposes shall be marked with the licensee’s last four numbers of his social security number or driver’s license number, preceded by the letter “R.” (*Id.* § 20-670-40(A)).

Buoys of all eel pots set for taking American eels for personal use must be marked by permanent means with the permit holder’s name, address, and phone number. *Id.* § 15-340-70).

Buoys of all eel pots set for taking American eels for sale must have the permit holder’s last name and Virginia Department of Game and Inland Fisheries American eel pot number permanently attached. (*Id.* § 15-340-80).

Does the state have any requirements for attending gear?

The holder of a permit to take fish with a haul seine for personal use must be present when the seine is being operated but may have other persons to assist him who are not required to have a permit. (4 VA. ADMIN. CODE § 15-340-20).

All gill nets must be checked daily and all game fish returned to the wild. The permit holder must be present when the gill net is being set and checked for fish. The holder of a gill net permit must be present with the net at all times when it is being set and checked for fish. The holder may have others to assist him, and such persons assisting are not required to have a permit. (*Id.* § 15-340-30).

Any person licensed to use a recreational gill net up to 300 feet in length must stay within 100 yards of such net when it is overboard. (*Id.* § 20-670-30 (A)).

It is unlawful for any person to use any anchored gill net when licensed for recreational purposes under this chapter that is greater than 110 feet in length in any of the tidal waters upriver of the saltwater-freshwater boundaries. Any anchored gill net set or placed in areas upriver of the saltwater-freshwater boundaries must be retrieved within one hour of setting or placing that gill net. Any person licensed to use a recreational anchored gill net must stay within 100 yards of such net when it is overboard. Any unattended anchored gill net may be confiscated by the marine police officer. (*Id.* § 20-670-30 (B)).

Are there prohibitions on “molesting” gear? If so, is “molesting” defined?

There are no laws or regulations expressly placing restrictions on the handling of fishing gear.

Are there any requirements that fishermen remove gear?

Every owner or user of a crab trap or crab pond is required to “completely remove traps, leads, wire, poles, and all other related gear from the water not later than December 31 of each year.” (4 VA. ADMIN. CODE § 20-460-30(A)). In the vicinity of Tangier Island, owners and users may leave poles at crab trap or crab pound stands, “provided such poles will be used at said location the following season and not be abandoned.” (*Id.* § 20-460-30(B)).

Any person fishing a pound net or any other type of fishing device requiring the use of fixed poles or stakes must remove all such abandoned poles or stakes; however, one pole or stake may be left standing at least four feet above mean high water at old stands as an identification marker. Abandoned poles or stakes are considered to be poles or stakes that are not used for fishing. (VA. CODE ANN. § 28.2-237).

Any anchored gill net with a stretched mesh of greater than or equal to seven inches set east of the COLREGS Line and north of the North Carolina-Virginia border in Virginia waters and south of the Maryland-Virginia border and fished from sunset to sunrise from June 1 through October 31, must be brought back to port with the vessel, except as described. (4 VA. ADMIN. CODE § 20-430-65).

Any gill net with a stretched mesh of greater than or equal to seven inches set east of the COLREGS Line and north of the North Carolina-Virginia border and south of the Maryland-Virginia border in Virginia waters and fished from sunset to sunrise from November 1 through December 31, must be brought back to port with the vessel, except as described in 4 VA. ADMIN. CODE 20-252-135. (*Id.* § 20-430-65).

Who can remove gear?

Any fishing device not marked, tagged or identified in the required manner may be seized by an MRC officer and held for any forthcoming legal proceeding. (VA. CODE ANN. § 28.2-236.) The

most recent licensee for the fishing device is responsible for removing poles or stakes. (*Id.* § 28.2-237).

It is unlawful for any person to set nets on a fixed fishing device and let the device or nets remain unfished. (4 VA. ADMIN. CODE § 20-170-20).

- If a marine police officer determines that a device or net, except for a staked gillnet, has not been fished for at least five days, he is required to notify the licensee and the licensee has seven days to remove or fish the device or net. (*Id.* § 20-170-30(A)).
- For staked gill nets, marine police officers will notify the licensee if it appears the net has not been fished for at least a 24-hour period. The licensee must remove or fish the net within 24 hours after notification. (*Id.* § 20-170-30(B)).

It is prohibited to set any gill net or nonfixed finfishing device and let the net or device remain unfished.

- If, upon visual observation, any Marine Patrol Officer determines on reasonable evidence that any gill net or nonfixed finfishing device has not been fished, he will notify the licensee, and if the licensee fails to fish or remove the gill net or nonfixed finfishing device within 24 hours after notification, the licensee will be guilty of a violation of this chapter and the Marine Patrol Officer may confiscate the gill net or nonfixed finfishing device.
- A verbal warning by a Marine Patrol Officer to the licensee by telephone or in person, or the placement of a warning tag on the gill net or nonfixed device adjacent to the license tag shall constitute notification to the licensee of a potential violation. Warning tags will explain that the gear must be fished or removed from the water within 24 hours or the gear will be confiscated. (4 VA. ADMIN. CODE § 20-550-20).

If only one end or buoy of a gill net is found to be marked as required, then a warning will be issued by a Marine Patrol Officer, and the net owner shall have 24 hours to mark the net. If both ends of a gill net are found in violation, a Marine Patrol Officer will confiscate the net immediately unless at least one remaining buoy is inscribed with the last four numbers of the licensee's commercial fisherman registration license. (*Id.* § 20-430-70).

Are there closed periods to facilitate the removal of gear?

No provisions were found.

What are the procedures for removing gear?

Provisions for notification for removal of illegal fishing gear are noted above.

No provisions for the cleanup of DFG on Virginia beaches were found. Clean Virginia Waterways, a nonprofit, organizes the Ocean Conservancy's International Coastal Cleanup in Virginia. The organization collects data cards from cleanups.

Are there other relevant definitions/laws/regulations for derelict or abandoned property?

Abandoned Vessels

“Abandoned watercraft” is defined as a watercraft that is left unattended on private property for more than 10 days without the consent of the property’s owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property. VA. CODE ANN. § 29.1-733.2.

Aquaculture

There were no definitions or provisions found for derelict aquaculture gear.

Other

The MRC has the authority to remove any wharf, pier, piling, bulkhead, structure, or vessel that constitutes an obstruction or hazard in state waters. (VA. CODE ANN. § 28.2-1210).

Washington

Does the state legally define derelict fishing gear?

Under Washington law “derelict fishing gear” includes lost or abandoned fishing nets, fishing lines, crab pots, and other commercial and recreational fishing equipment. Washington Department of Fish and Wildlife (WDFW) does not consider lost or abandoned vessels derelict fishing gear. (WASH. REV. CODE § 77.12.865(1)).

Shellfish pots become derelict fishing gear when either the surface floats are lost due to wear and tear or the pots become so entangled and “mudded in” the seabed and are lost. (Washington Department of Fish and Wildlife, Derelict Fishing Gear Removal Guidelines, 7 (Nov. 2002), available at <http://wdfw.wa.gov/publications/00871/wdfw00871.pdf>).

What are the state requirements for marking gear?

Traps

In the state of Washington it is illegal to place in the water, pull from the water, possess in the water, or transport on the water crab pots or buoys without the proper identification tags.

- Each shellfish pot used for commercial purposes in the commercial crab fishery must bear a durable, nonbiodegradable tag securely attached to the pot that is permanently and legibly marked with the license owner's name or license number and telephone number. If the tag information is illegible, or the tag is lost for any reason, the pot is not in compliance with state law. (WASH. ADMIN. CODE § 220-52-042(2)).

Persons operating under a valid coastal gear recovery permit as provided in WASH. ADMIN. CODE § 220-52-045 may possess crab pots or buoys missing tags or bearing the tags of another license holder, provided the permittee adheres to provisions of the permit. (*Id.* § 220-52-042 (1)(a)-(b)).

Buoys

Commercial shellfish pot, bottom fish pot, set line and set net gear must be marked with a buoy that bears the WDFW approved and registered buoy brand issued to the licensee in a visible and legible manner. (WASH. ADMIN. CODE § 220-20-119).

- It is unlawful to operate any gill net unless there is a buoy, float, or other marker affixed within 5 feet of each end of the net and visible on the cork line. The buoy, float, or other marker must be labeled legibly and permanently with the name and gill-net license number of the owner of the net.
- It is unlawful to retain salmon, sturgeon, or fish that are entangled in commercial nets to pass through a power block or onto a power reel or drum. (WASH. ADMIN. CODE § 220-20-119).

It is unlawful to operate any drift gillnet, attended or unattended, unless there is affixed, within five feet of each end of the net, two red size A-3 buoys, marking the visible end of the cork line portion of the net. One of the two buoys shall be marked in a visible, legible, and permanent manner with the name and gillnet license number of the fisher. The cork line portion of the net shall be marked every 50 fathoms of the net with size A-1 buoys. (*Id.* § 220-47-302(a)-(b)).

The use of antifreeze bottles or other containers as float gear is prohibited. (*Id.* § 220-52-005).

For the ocean spot shrimp pot fishery, set line end marker buoys must be floating and visible on the surface of the water, equipped with a pole, flag, radar reflector, and operating light, and marked with the clear identification of the license holder and the vessel designated on the coastal spot shrimp pot license. (*Id.* § 220-52-052 (c)).

In the recreational fishery, it is unlawful for any person to operate a shellfish pot not attached to a buoy bearing that person's name, except that a second person may assist the pot owner in operation of the gear. A violation of this subsection is a misdemeanor, punishable under WASH. REV. CODE § 77.15.382. (*Id.* § 220-56-315).

The recreational fishery also requires buoys attached to shrimp gear to be yellow or fluorescent yellow in color. Flags and staff, if attached, may be any color. (*Id.* § 220-56-317).

All buoys attached to recreational crab gear must be half red or half fluorescent red in color and half white in color. Flags and staff, if attached, may be any color. (*Id.* § 220-56-318).

Does the state have requirements for attending gear?

It is unlawful for the owner or operator of any commercial food fish or shellfish gear to leave the gear unattended in state or offshore waters unless the gear is marked. (WASH. ADMIN. CODE § 220-20-119).

- Buoys affixed to unattended commercial food fish or shellfish gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.
- It is unlawful to leave a gill net unattended at any time in the commercial salmon fishery.

It is unlawful for the operator of set lines to leave such gear unattended, unless the following requirements are met:

- Gear must be marked with a buoy. The buoy must have affixed to it in a visible and legible manner a WDFW-approved and registered buoy brand issued to the licensee. Set lines must also be marked at the surface at each terminal end with a pole and flag, light, and radar reflector.
- Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

- Set lines must be attended to no less than every seven days. (*Id.* § 220-44-030).

It is unlawful for the operator of bottomfish pots to leave such gear unattended, unless the following requirements are met:

- Gear must be marked with a buoy. The buoy must have affixed to it, in a visible and legible manner, a WDFW-approved and registered buoy brand issued to the licensee.
- Bottomfish pots laid on a ground line must be marked at the surface with a pole and a flag, light, and radar reflector at each terminal end.
- Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.
- Bottomfish pots must be attended to no less than every seven days. (*Id.*).

Coastal crab gear must be tended every 21 days from May 1 through September 15. (*Id.* § 220-52-049.)

For the recreational fishery, unattended shellfish gear must be marked with a buoy that lists the first and last name and permanent mailing address of the owner. (*Id.* § 220-56-320).

- The information on the buoy must be permanent, visible, and legible.
- Only one person's name and address may appear on a marker buoy.

Are there prohibitions on "molesting" gear? If so, is "molesting" defined?

It is unlawful for any person to possess, use, control, or operate any crab pot bearing a tag identifying the pot as belonging to another person, or any buoy not bearing tags issued by WDFW to the person possessing them except:

- An alternate operator designated on a primary license may possess and operate crab buoys and crab pots bearing the tags of the license holder.
- Persons operating under a valid coastal gear recovery permit issued by the WDFW may possess crab pots or buoys bearing the tags of another license holder, provided the permittee adheres to provisions of the permit. (WASH. ADMIN. CODE §220-52-047(1)).

It is unlawful for any person to remove, damage, or otherwise tamper with crab buoy or pot tags not issued to that person, except:

- A person may possess the buoy tags or pot tags of another when the person is operating under a valid coastal gear recovery permit or emergency gear recovery permit issued by the department, and adheres to the permit's provisions. (WASH. ADMIN. CODE §220-52-047 (3)).

For the recreational fishery, is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost, unless the person first obtains a permit issued by the director, authorizing that activity. A violation is punishable under WASH. REV. CODE § 77.15.180, Unlawful interference with fishing or hunting gear-Penalty. It is unlawful to fail to comply with all provisions of a permit authorizing the salvage of gear from Hood Canal. (WASH. ADMIN. CODE § 220-56-315).

Are there any requirements that fishermen remove gear?

There are no provisions that expressly require fishermen to remove derelict fishing gear. However, Washington does require that lost and abandoned gear be reported to the WDFW.

The WDFW, in partnership with the Northwest Straits Commission, the Department of Natural Resources, and other interested parties, must create and ensure the maintenance of a database of known derelict fishing gear and shellfish pots, including the type of gear and its location. A person who loses or abandons commercial net fishing gear within the waters of the state is required to report the location of the loss and the type of gear lost to the department within twenty-four hours of the loss. A person who loses or abandons shellfish pots within the waters of the state is encouraged to report the location of the loss and the type of gear lost to the WDFW. (WASH. REV. CODE § 77.12.870).

It is unlawful for any person who loses or abandons non-tribal commercial net fishing gear within the waters of the state to fail to:

- Contact the WDFW within twenty-four hours of the loss, by phone at 855-542-3935, or online at <http://wdfw.wa.gov/fishing/derelict/>; and
- Provide the following required information:
 - Type of gear;
 - (ii) General location of the gear;
 - (iii) Latitude (if known) of the gear;
 - (iv) Longitude (if known) of the gear;
 - (v) Estimated water depth where the gear is located;
 - (vi) Date the gear was lost;
 - (vii) Time the gear was lost;
 - (viii) Name of gear's owner;
 - (ix) Telephone number of the gear's owner; and
 - (x) E-mail address (if available) of the gear's owner. WASH. ADMIN. CODE §220-20-119 (3).

Who can remove derelict or abandoned fishing gear?

In Washington, anyone can remove DFG as long as it is done in accordance with WDFW guidelines. The guidelines were developed by the WDFW, NSC, and others as directed by Senate Bill 6316 in 2002. (WASH. REV. CODE § 77.12.865).

Are there closed periods to facilitate the removal of gear?

Washington also has a post-season DFG recovery program as part of the coastal commercial Dungeness crab pot removal program. The WDFW may issue a crab pot removal permit that allows the participants in the Dungeness crab-coastal fishery to remove crab pots belonging to state commercial licensed crab fisheries from coastal marine waters after the close of the primary commercial Dungeness crab-coastal harvest season, regardless of whether the crab pot was originally set by the participant or not.

- No more than fifteen days after the close of the primary commercial Dungeness crab-coastal harvest season, any individual with a current commercial Dungeness crab-coastal license and a valid crab pot removal permit issued by the WDFW may remove a crab pot or crab pots used to harvest Dungeness crabs remaining in coastal marine waters after the close of the primary commercial Dungeness crab-coastal harvest season. (WASH. ADMIN. CODE § 220-52-044).
- The program exempts crab pots from Washington's personal property law if they are recovered in a permitted recovery program at least 15 days after the end of season. Dungeness crab gear retrieved under the authority of a Post-Season Derelict Gear Recovery Permit may be used or disposed of at the permit holder's discretion after documenting retrieval of the gear in accordance with permit conditions. (WASH. REV. CODE § 77.70.500).

What are the procedures for removing gear?

The Derelict Fishing Gear Removal Guidelines (DFGRG) promulgated pursuant to WASH. REV. CODE § 77.12.865(2) establish the procedures for the removal of lost or abandoned fishing gear.

- No permit is required for DFG removal, but permits from private landowners or Tribe, state, or county parks may need to be obtained depending on where the removal activities will occur.
- A removal plan must be submitted to WDFW 30 days in advance. The WDFW's response letter authorizing the removal must be kept onboard the vessel conducting the removal operation.
- Volunteers may remove derelict fishing gear from beaches as long as common sense safety precautions are followed.
 - Beach removal should be scheduled to coordinate with the tidal cycle at the cleanup site. No mechanical advantage equipment (vehicles, winches, come-

along, etc.) should be used to dislodge or uncover derelict fishing gear during beach removal.

- Experienced, organized recreational divers with a WDFW-approved derelict fishing gear removal plan may conduct recovery of derelict crab and shrimp pots in shallow water.
 - In shallow water operations, dive teams can survey for derelict pots or traps and mark those found with surface floats. The pots can then be removed with air lift-bags or hand positioned grapple. Blind grapple must be avoided.
 - Derelict pot or trap removal operations cannot be conducted in areas where active commercial pot fisheries are ongoing.
 - The following conditions apply to DFG projects:
 - The project must be done in accordance with a WDFW approved derelict fishing gear removal plan, the project must include appropriate supervision of the team involved, and the operation must have a safety plan for the team.
 - The Guidelines encourage divers to reconnoiter for derelict pots or traps using SCUBA, ROV, sonar or other survey methods prior to undertaking actual removal operations.
- Only professional divers in compliance with OSHA/WISHA safety standards should attempt the recovery of derelict fishing nets, lines and aquaculture net pen materials in the water.
- If the pot can be identified, the owner must be contacted in accordance with federal admiralty law and Washington State Abandoned Property Law.
 - All derelict fishing gear removal plans must address compliance with these regulations during the removal operation.
- Derelict fishing gear must be disposed of properly, or preferably recycled, after removal from the marine environment.
- A post-recovery report is due to the DFWF within 60 days of completion of the operation or every six months if the project is of long duration. The report should include the following data:
 - Participation (organizations and individuals)
 - What organization conducted the removal operation
 - List of participants
 - Sponsoring organization

- Disposal entity
- Cost of removal and disposal (as much detail as possible)
- Date and Time
- Location
- Nature of DFG removed
- Removal methods employed
- Environmental consequences
- Type, volume and condition of any derelict fishing gear that was not removed
- Disposal method

Are there other relevant definitions/laws/regulations for derelict or abandoned property?

Abandoned Vessels

“Abandoned vessel” means a vessel that has been left, moored, or anchored in the same area without the express consent, or contrary to the rules of, the owner, manager, or lessee of the aquatic lands below or on which the vessel is located for either a period of more than thirty consecutive days or for more than a total of ninety days in any three hundred sixty-five-day period, and the vessel’s owner is (1) not known or cannot be located; or (2) known and located but is unwilling to take control of the vessel. For the purposes of this definition, “in the same area” means within a radius of five miles of any location where the vessel was previously moored or anchored on aquatic lands. (WASH. REV. CODE § 79.100.010(1)).

“Derelict Vessel” means the vessel's owner is known and can be located, and exerts control of a vessel that:

- Has been moored, anchored, or otherwise left in the waters of the state or on
 - public property contrary to RCW 79.02.300 or rules adopted by an authorized public entity;
- Has been left on private property without authorization of the owner; or
- Has been left for a period of seven consecutive days, and:
 - Is sunk or in danger of sinking;
 - Is obstructing a waterway; or
 - Is endangering life or property. (*Id.* § 79.100.010(5)).

Aquaculture

No provisions addressing abandoned aquaculture equipment were found.