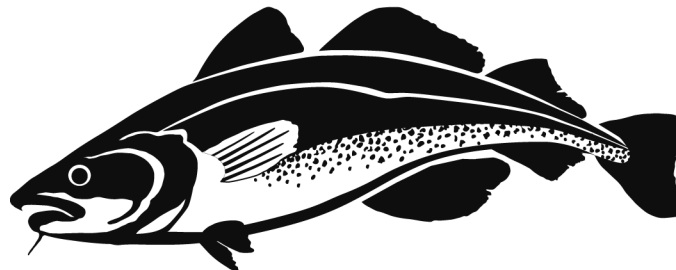


**Public Hearing:
Electronic Monitoring, Protected Species, Mobile
Gear Exemption Areas, and Whelk Gauge
Schedule**

**6PM
November 3, 2022
Virtually Via Zoom**

Marine Fisheries
Commonwealth of Massachusetts



Public Hearing and Comment

Under the provisions of M.G.L. c. 30A, and pursuant to the authorities found at M.G.L. c. 130 §§ 17A, 21, 80 and 104, the Division of Marine Fisheries (DMF) is taking public comment and holding public hearings on proposed amendments to regulations at 322 CMR 4.00, 6.00, 7.00, 8.00 and 12.00. These amendments affect electronic monitoring in the federal lobster and Jonah crab trap fishery; protected species regulations; mobile gear exemption areas; and the whelk gauge schedule.

Written public comment will be accepted through Friday, November 11, 2022. Please send written public comment via e-mail to marine.fish@mass.gov or by post to the attention of Director McKiernan at 251 Causeway Street, Suite 400, Boston, MA 02114.



Overview of Proposals

Electronic Tracking for Commercial Lobster and Crab Trap Fishery (322 CMR 7.11).

- Require by 5/1/23, all commercial lobster permit holders with federal lobster permits to fish traps install and have operational electronic tracking devices onboard the permitted fishing vessel.

Protected Species Regulations (322 CMR 4.13, 6.02, and 12.00)

- Allow Director to amend opening of recreational trap fishing season based on presence/absence of right whales.
- Eliminate the weak link requirement for commercial trap fisheries.
- Improve the regulatory definition of buoy line to enhance compliance with protected species rules.

Whelk Gauge Schedule (322 CMR 6.21). Delay the scheduled 1/8" whelk gauge increases so they occur every third year rather than biennially.

Area 1A Mobile Gear Season (322 CMR 4.06). Expand the Area 1A (Rockport/Gloucester) open season for mobile gear fishing from February 1 – March 31 to February 1 – May 15.

Housekeeping (322 CMR 4.00, 6.00, 7.00, and 8.00).

- Eliminate term “grandfather” from DMF regulations.
- Replace term “fisherman” with “fisher”.
- Update and delete out-of-date or misprinted terms.
- Reorganize regulatory provisions.



Virtual Rules of Engagement

- Purpose of the hearing is to afford interested parties an opportunity to submit data, opinions, comments, or arguments on the specific amendments being proposed, or to offer how the proposed amendment can be changed to minimize the impact on those affected while still achieving goals.
- Comments on matters outside of the scope of the specific amendments being proposed will be accommodated upon the conclusion of the hearing if time permits.
- All members of the public will be muted throughout the presentation. At the conclusion of the presentation, DMF will first accept clarifying questions regarding the proposals, and then once all the questions are addressed, DMF will invite public comment on the various proposals.
- The written “chat” and “question and answer” functions have been disabled. DMF will respond to verbal questions at the end of the hearing. Additionally, you can follow up with DMF staff after the hearing by e-mail (marine.fish@mass.gov).
- When participating in the question and comment forums, the public is required to use the raise hand function. This creates a queue and DMF will recognize and unmute individuals when it is their turn to speak. Individuals will be provided three (3) minutes for questions and comments per hearing item. Follow-up comments may be allowed after all other persons have had an opportunity to speak.
- It is not necessary for you to provide verbal comment during this public hearing. You may use this virtual hearing for informational purposes and submit written comments later. In fact, submitting written public comment is recommended.
- DMF prefers that written comment be submitted by e-mail (marine.fish@mass.gov). All written comment is to be submitted by November 11, 2022. Written comment will be shared with the MFAC in advance of the November 22, 2022 business meeting.
- This public hearing will be recorded, and questions and comments are part of the public record. The recording of the public hearing will also be posted to [DMF's YouTube Channel](#).



Timeline for Rule Making

Nov 3 – Public Hearing

Nov 11 – Close Public Comment Period

Nov 18 – Final Recommendation to MFAC

Nov 22 – MFAC Final Review and Vote

Nov 23 – Jan 5 – Executive Review

Jan 6 – Promulgate Final Regulations



Electronic Trackers

Proposal:

- For May 1, 2023, require all commercial lobster permit holders with federal lobster trap permit to install and have operational an electronic tracking device onboard the federally permitted vessel named on the state lobster permit.

Rationale:

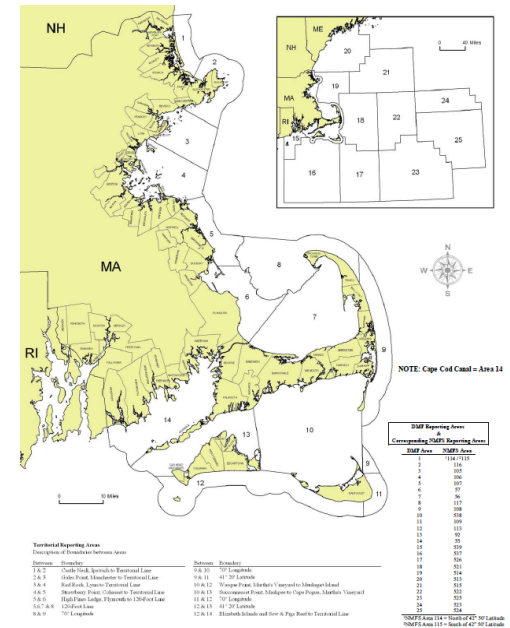
- Comply with ASMFC FMPs for American Lobster and Jonah Crab.

Purpose:

- Improve spatial data collection in federal lobster trap fishery.
- Enhance spatial data available to address emerging issues:
 - Marine spatial planning (e.g., offshore wind energy development and mitigation, offshore aquaculture);
 - Development of habitat conservation and marine protected areas;
 - Protected species risk analyses; and
 - Stock assessment and delineation of catch to stock area.

Additional Info

- Federal earmark will allow MA to subsidize cost and installation of electronic tracking device and first three years of annual service fee.
- ASMFC currently reviewing RFRs for potential tracking device vendors.



Protected Species

Proposal:

- Allow Director to annually amend opening of May 16 – October 31 buoyed recreational lobster trap fishery on dynamic basis in response to presence/absence of right whales.

Background:

- Right whales seasonally aggregate in Massachusetts waters during winter and early spring.
- Recently, whale aggregations have not broken up until early-to-mid May.
- Recreational buoyed trap closure was implemented in 2021 to reduce risk posed to right whales and proliferation of marine debris. Closure does not apply to unbuoyed trap gear fished from shoreline (e.g., Cape Cod Canal).
- Dynamic management exists for commercial fixed gear fisheries.

Rationale:

- Allows DMF to delay opening of fishery if right whales remain in state waters to prevent entanglement risk.
- Allows DMF to allow fishing prior to May 15 should right whales migrate out of state waters and entanglement risk minimized.



Protected Species

Proposal:

- Eliminate weak link requirement at buoy in all commercial trap fisheries.
- Retain requirement for recreational trap fishery.

Background:

- Weak link requirement has been eliminated from federal ALWTRP rules for lobster and crab trap fishery.
- Entanglement record shows little evidence gear modification works as intended.
- Commercial fishery is subject to new buoy line diameter and weak contrivance rules (2021).

Rationale:

- Will provide MA Mixed Species Trap Fishery similar allowances afforded under federal plan.
- Provides some risk reduction to recreational gear where more involved gear modifications (e.g., weak inserts) are not mandated.

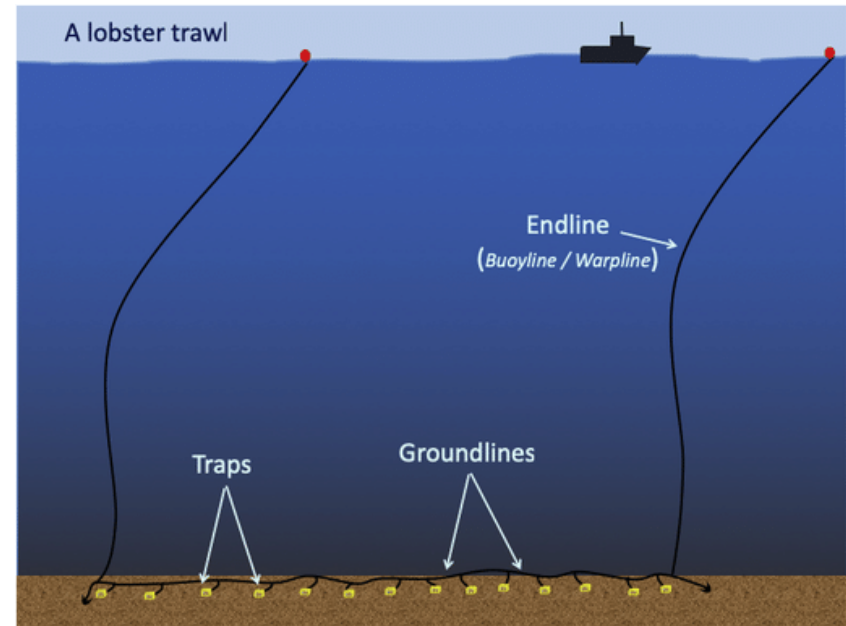


Source: National Fisherman

Protected Species Housekeeping

Proposal:

- Clarify commercial fishers fishing trawls may not have more than 12' of groundline extending from the first gangion on either end of the trawl to where it splices with the buoy line. All buoy line rules then apply between connection at surface buoy to spot where groundline is spliced to buoy line.
- Move buoy line marking rules from 322 CMR 4.00 (Fishing Equipment) to 322 CMR 12.00 (Protected Species) to better reflect these are protected species management rules.
- Update purpose section of regulation to better reflect current status of protected species management.
- Improve organization and readability of 322 CMR 12.00.



Source: Sean Brilliant c/o Google Images

Whelk Gauge Size Increase Schedule

Proposal:

- Delay 1/8" increases to whelk gauge size by moving from a biennial schedule to a once every three-year schedule beginning in 2023.

Rationale:

- Address industry concerns about declines in whelk fishing effort and landings and potential loss of shore-side infrastructure.
- Responds to public petition from MA Conch Association and Big G Seafood.

Comparison of Current & Proposed Gauge Schedules & Percent of Mature Females at Gauge Size

Current Schedule	2021 – 2022 3 1/8"	2023 – 2024 3 1/4"	2025 – 2026 3 3/8"	2027-2028 3 1/2"	2029 3 5/8"
Proposed Schedule	2021 – 2023 3 1/8"	2024 – 2026 3 1/4"	2027 – 2029 3 3/8"	2030-2032 3 1/2"	2033 3 5/8"
Percent Size at Maturity	0%	0%	5%	20%	50%

Background and Additional Info:

- Stock assessment shows resource is overfished with overfishing occurring.
- Size-at-maturity study shows females do not reach 50% size-at-maturity until 3 7/8" shell width corresponding to a 3 5/8" gauge width.
- 2019: DMF implemented a 10-year schedule of 1/8" biennial gauge width increases resulting in a terminal gauge width of 3 5/8" in 2029. Animal is slow growing and gradual schedule was designed to offset economic impacts.
- Petition will delay milestones for spawning stock protections, but petitioners seek to balance this against long-term viability of fishery and shore-side infrastructure.



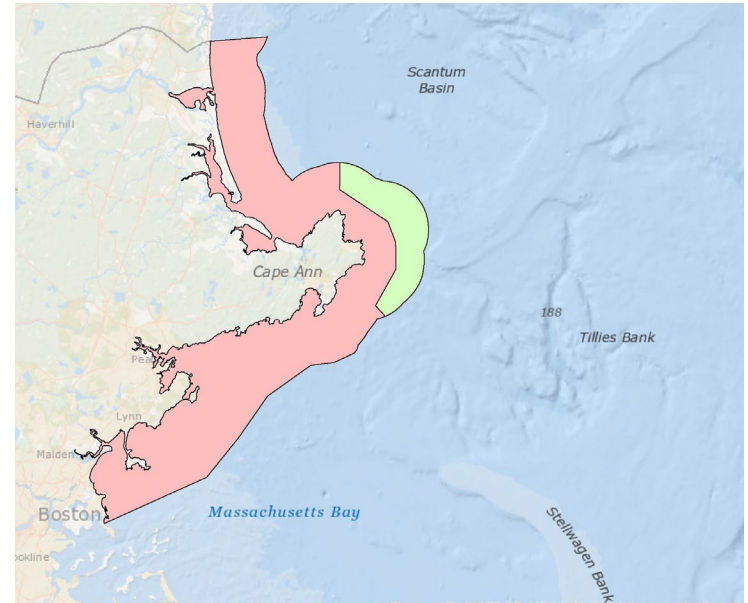
Area 1A Mobile Gear Open Season

Proposal:

- Extend wintertime exemption to Area 1A to allow mobile gear fishing from February 1 – May 15 rather than February 1 – March 31.

Rationale:

- Will provide CAP permit holders with access to potentially exploitable sea scallop resource.
- Exempted fishing activity will occur in area where fishing activity has seasonally occurred.
- Unlikely to produce direct or indirect effort on groundfish given seasonal availability and overarching closures.
- Roundfish bycatch in sea scallop dredges limited by gear configuration rules (i.e., 10" twine top mesh).
- Analysis of federal observer data for adjacent federal waters shows winter flounder bycatch likely nominal.

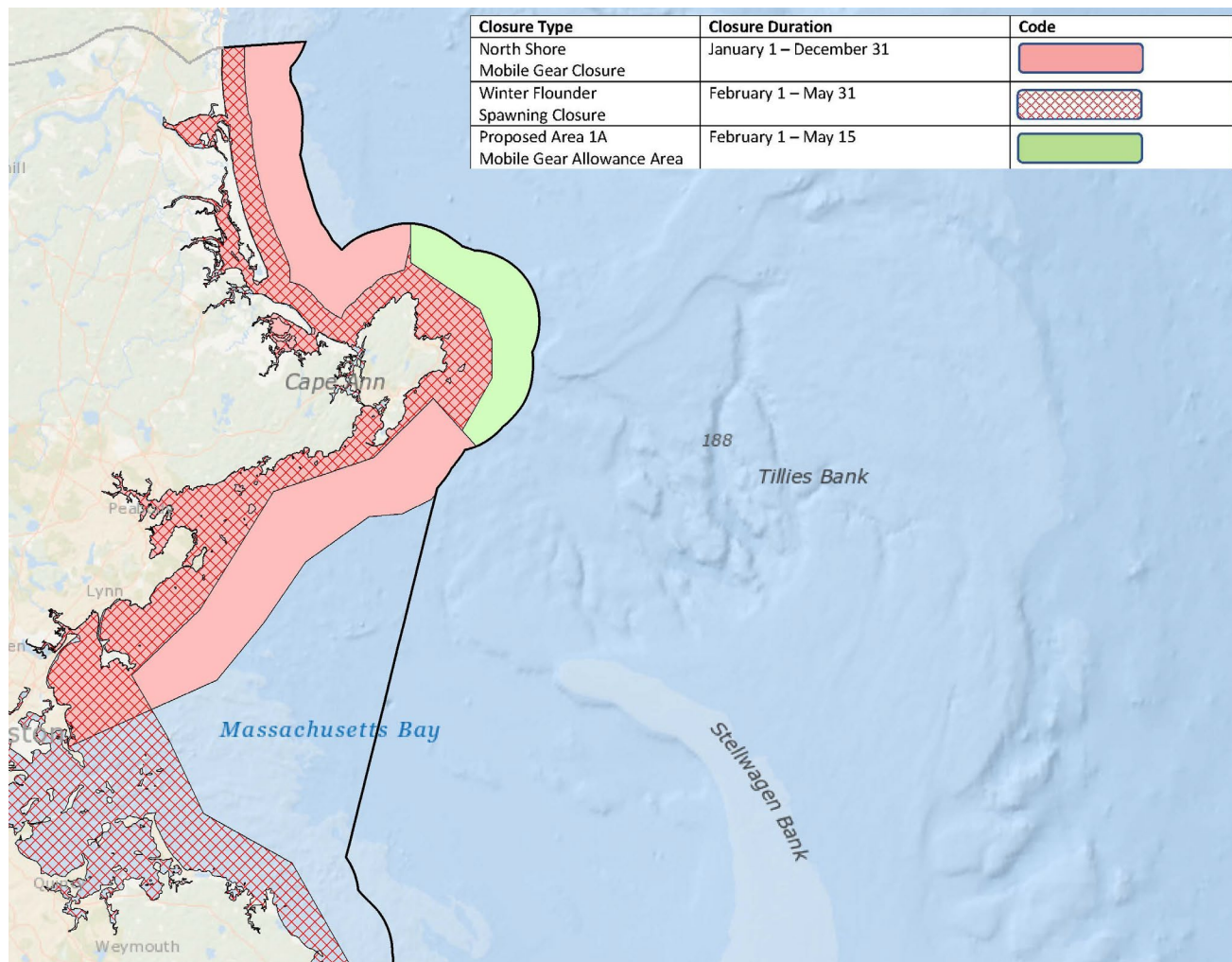


Background:

- 1930s - North Shore waters closed to mobile gear fishing year-round to prevent gear conflicts.
- DMF and MFAC have carved out time-area exemptions (Area 1A – Rockport/Gloucester and Area 1B – Ipswich Bay) to allow targeting of certain fisheries (e.g., scallops, whiting) when and where gear conflicts are expected to be limited.
- Fixed gear fishing is currently prohibited north of Cape Cod from February 1 – May 15 due to right whales.

Overlap of Closures Affecting Mobile Gear Fishing

February 1 – April 14



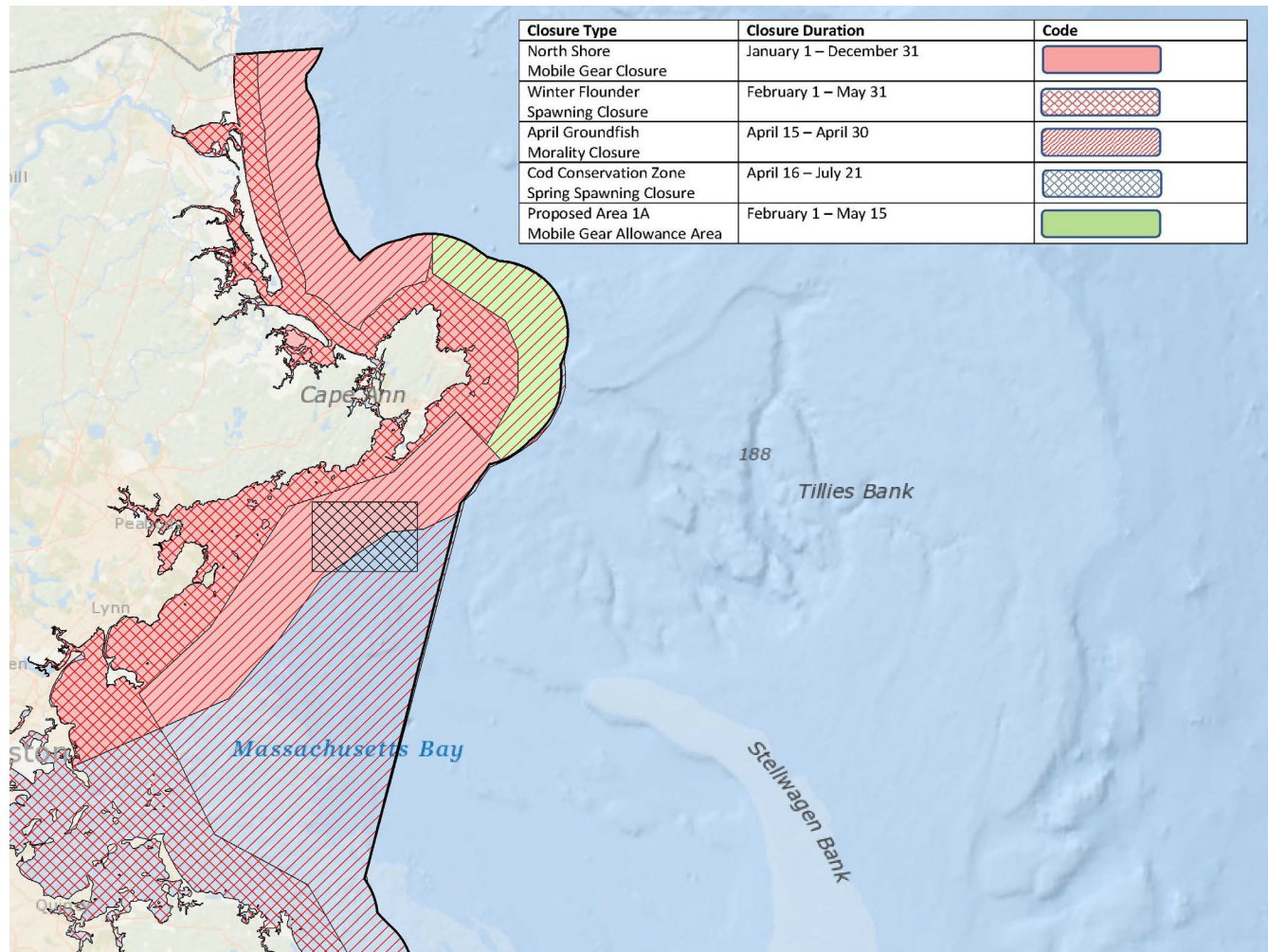
November 3, 2022

Massachusetts Division
of Marine Fisheries



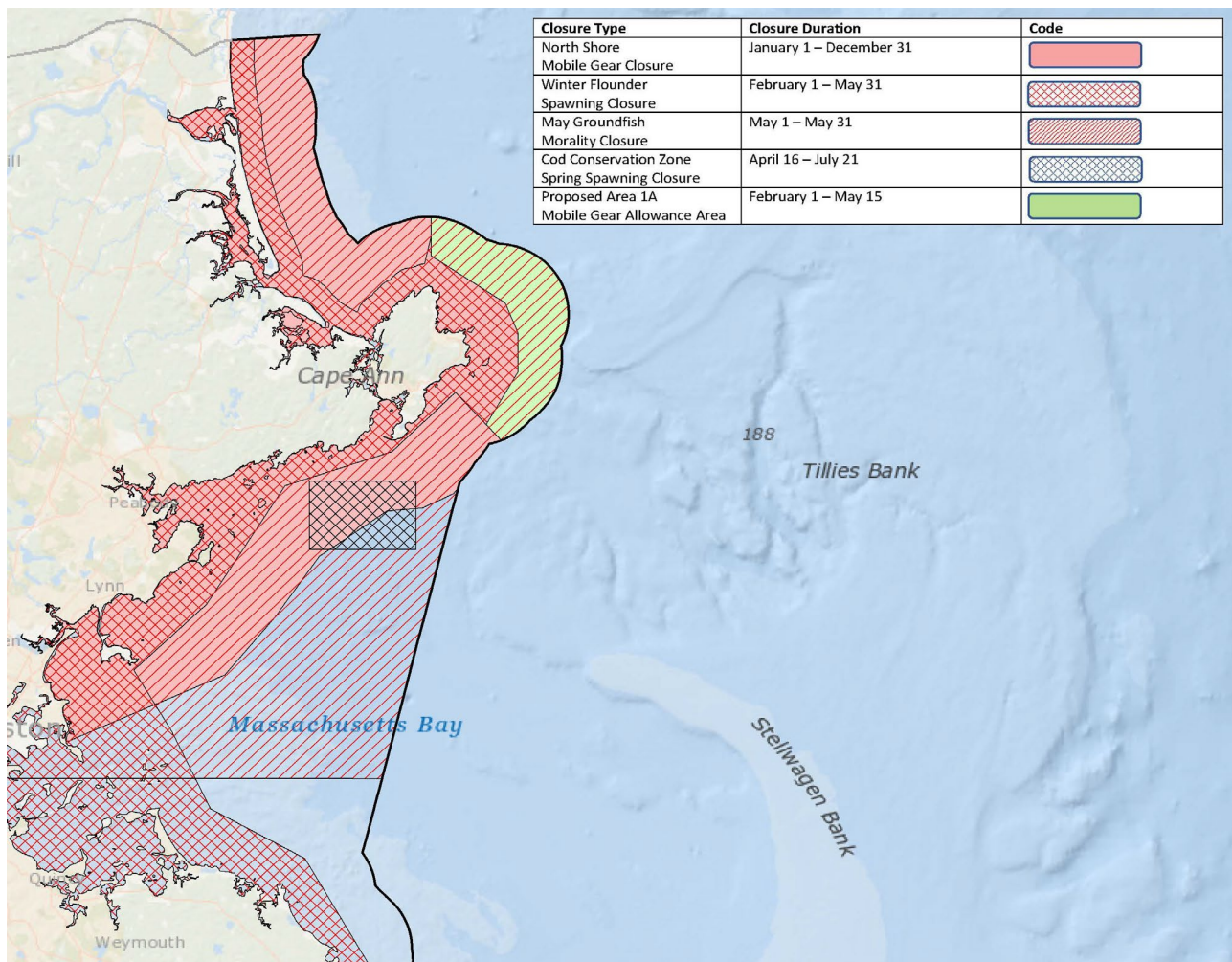
Overlap of Closures Affecting Mobile Gear Fishing

April 15 – April 30



Overlap of Closures Affecting Mobile Gear Fishing

May 1 – May 31



November 3, 2022

Massachusetts Division
of Marine Fisheries



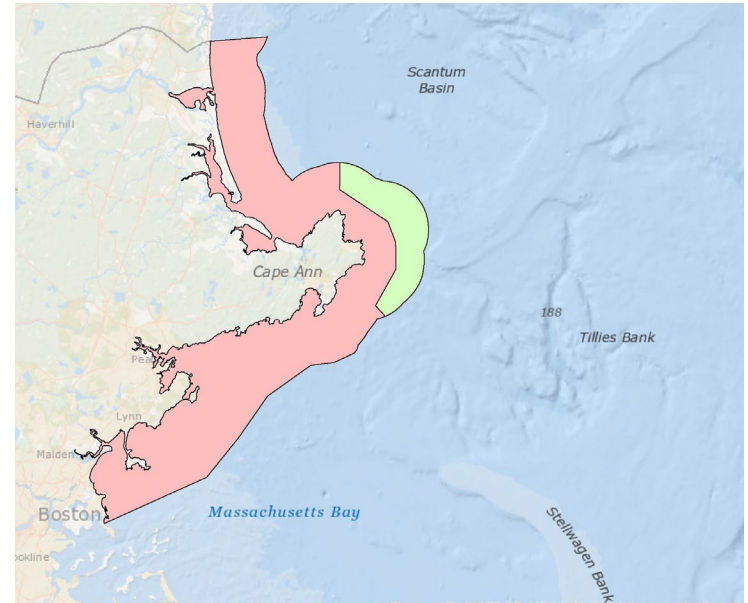
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- Fixed gear fishing is currently prohibited north of Cape Cod from February 1 – May 15 due to right whales.

Housekeeping

Proposal:

- Eliminate term “grandfather” from regulatory code consistent with executive mandates.
- In sections affected by this rule making, replace the term “fisherman” or “fishermen” with gender neutral term “fisher”.
- Eliminate 322 CMR 8.08 and established as a reserved section, as requirements of section are redundant to existing provisions codified elsewhere in the CMR.
- Correct errors in language defining black sea bass pots and mobile gear exemption areas.



Written Public Comment

Written public comment will be accepted through Friday, November 11, 2022. Please address written by e-mail to marine.fish@mass.gov or by post to the attention of Director McKiernan at 251 Causeway Street, Suite 400, Boston, MA 02114.

Recording of public hearings will be published on [DMF's YouTube Channel](#)

