

#### 12.04: Fixed Gear Seasonal Closures

1. Gillnet Closures in Right Whale Critical Habitat and Cape Cod Bay. It is unlawful to fish, store, or abandon gillnets in Critical Habitat and in waters of Cape Cod Bay west of the Critical Habitat south of 42° North Latitude during the period January 1<sup>st</sup> through May 15<sup>th</sup>.
2. Trap Gear Haul-Out Period. It shall be unlawful for any recreational or commercial fisherman, permitted in accordance with G.L. c. 130 § 37, 38 or 80 and 322 CMR 7.01(2) or 322 CMR 7.01(4), to fish, set, store, or abandon any trap gear in the Large Whale Seasonal Trap Gear Closure Area from February 1 through April 30.
3. **Notice of Declaration to Amend Timing of Fixed Gear Seasonal Closures.** The Director, through Notice of Declaration, may adjust the duration of the fixed gear seasonal closures at 322 CMR 12.04(1) and (2), as reasonably necessary to prevent the entanglements of the North Atlantic right whale in fixed fishing gear based on the Director's assessment of the documented presence of the North Atlantic right whale in Massachusetts waters. The Director shall amend the timing of these fixed gear seasonal closures by filing the Notice of Declaration with the Secretary of State for publication in the *Massachusetts Register*, publishing the Notice on the Division's Legal Notice webpage, and distributing it via the Division's e-mail list serve.

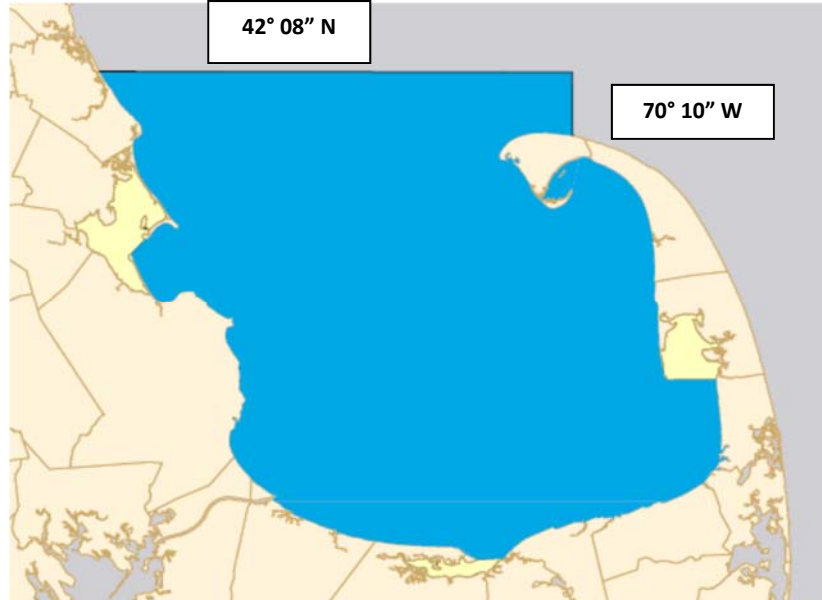
#### 12.05 Speed Restrictions to Protect North Atlantic Right Whales.

1. **Purpose and Scope.** North Atlantic right whales are a critically endangered species. Annually they migrate through state waters and aggregate in Cape Cod Bay to feed during the late-winter and early-spring. In order to protect these whales from vessel strikes, the National Marine Fisheries Service promulgated regulations at 50 CFR 224.105 in 2008 that restrict the speed of vessels measuring at least 65 feet in overall length to 10 knots while transiting certain waters around Cape Cod. In order to establish similar measures to prevent strikes of whales by vessels smaller than those regulated under the federal regulations, the Division of Marine Fisheries has established these seasonal vessel speed restrictions for Cape Cod Bay.

**2. Cape Cod Bay Vessel Speed**

**Restriction Area.**

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



**3. Vessel Speed Restriction and Time Period.** During the period of March 1 – April 30, all vessels measuring less than 65' overall length and operating within the Cape Cod Bay Restricted Speed Area shall travel at a speed of 10 knots or less.

**4. Exemptions.** 322 CMR 12.05(2) and (3) shall not apply:

**a. Inshore Areas.** Within those waters within Plymouth, Kingston and Duxbury Harbors, Barnstable Harbor and Wellfleet Harbor, as defined at 322 CMR 4.02(2) and (3).

**b. Enforcement and Emergency Personnel.** To law enforcement and emergency personnel in the course of their authorized duties, including but not limited to, authorized federal whale disentanglement personnel when responding to an entangled whale.

**5. Notice of Declaration to Amend the Vessel Speed Restriction Time Period.** The Director may, through a Notice of Declaration, adjust the duration of the Cape Cod Bay Vessel Speed Restriction Time Period in 322 CMR 12.05(3), as reasonably necessary to prevent vessel strikes on right whales, based on the Director's assessment of the documented presence of North Atlantic right whales in Cape Cod Bay. The Director shall amend the timing of these fixed gear seasonal closures by filing the Notice of Declaration with the Secretary of State for publication in the *Massachusetts Register*, publishing the Notice on the Division's Legal Notice webpage, and distributing it via the Division's e-mail list serve.