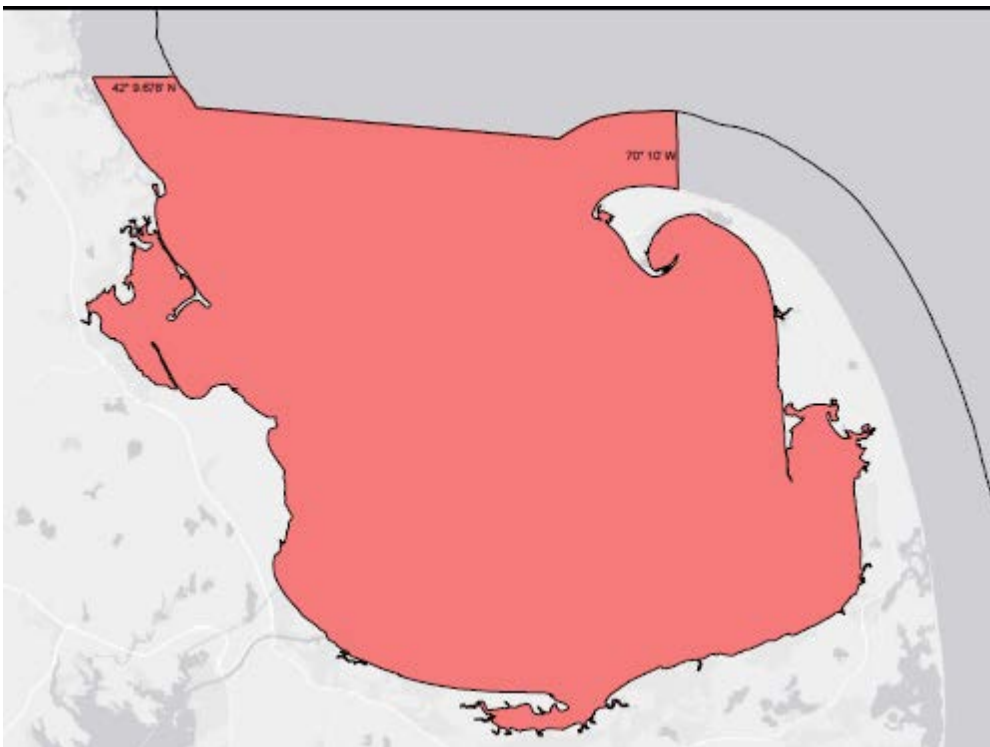


## **12.05 Speed Restrictions to Protect North Atlantic Right Whales.**

**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 bounded to the north and east by an imaginary line drawn from the coast at Fourth Cliff in Marshfield; thence following due east along  $42^{\circ} 9.678'$  north latitude to where it intersects with the state-waters line, as shown on NOAA Chart 13246, at  $42^{\circ} 9.678'$  north latitude and  $70^{\circ} 37.716'$  west longitude; thence along the state-waters line in an easterly direction to where it intersects with  $70^{\circ} 10'$  west longitude meridian; thence following the  $70^{\circ} 10'$  meridian due south to its intersection with the north shore of Provincetown.



**3. Vessel Speed Restriction and Time Period.** From February 1st through May 15<sup>th</sup>, 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.** When acting in the course of their duties, authorized law enforcement and emergency response personnel, including authorized federal whale disentanglement personnel when responding to an entangled whale, are exempt from the vessel speed restriction and time period in 322 CMR 12.05(3).

**4. Notice of Declaration to Amend the Vessel Speed Restriction Time Period.** The Director may, through a Notice of Declaration, extend or shorten the duration of the Cape Cod Bay Vessel Speed Restriction Time Period in 322 CMR 12.05(3), as reasonably necessary to prevent whale strikes, based on the Director's assessment of the documented presence of North Atlantic right whales in Cape Cod Bay. The Director shall amend the Vessel Speed Restriction Time Period through a Notice of Declaration by:

- 1. Filing the Notice of Declaration with the Secretary of State for publication in the *Massachusetts Register*;**
- 2. Publishing the Notice of Declaration through the Division's electronic listserve, on the Division's website and in a newspaper; and**
- 3. Conducting a two-week public comment period concurrent with filing and publishing of the Notice of Declaration. The Director may further amend the Notice of Declaration in response to public comment after filing and publishing the amended Notice of Declaration as required under 322 CMR 12.05(4)(1) and (2).**