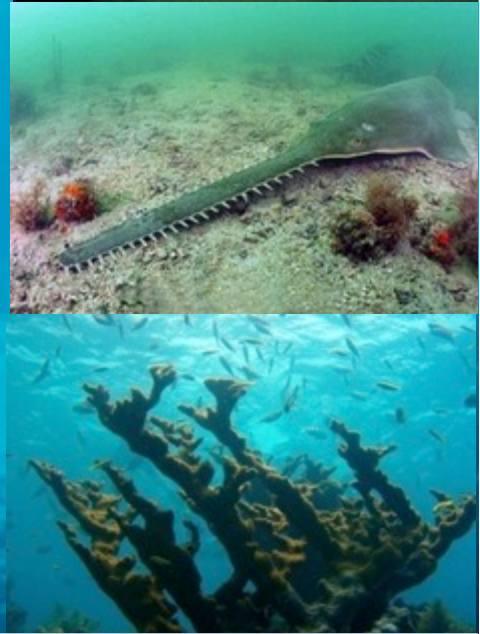


# Endangered Species - The Marine Environment



Penny Cutt  
Director, Coastal Systems International

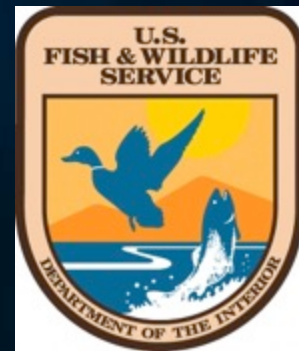
## What is the Endangered Species Act (ESA)

- Passed the ESA in 1973
- Protect & recover imperiled species and ecosystems



Administered by:

- U.S. Fish and Wildlife Service
- National Marine Fisheries Service (NMFS)



## Survey – Potential for T&E Species Onsite?

↓  
NO

↓  
YES

↓  
Project Effect?

↓  
Project moves forward

↓  
NO

↓  
YES

↓  
No  
consultation

↓  
Biological  
Assessment

↓  
Consultation

## Biological Assessment

- Project description
- Describe Project area
- Physical & biological conditions of area
- Listed species/critical habitat present
- How will the Project affect each resource (Corps)
  - a. No Affect = No consultation
  - b. MANLAA = Informal consultation
  - c. May Affect = Formal consultation

## Options for concrete pile installation

1. Installed by impact hammer without noise attenuation device and with more than 5 piles driven per day = formal (LAA) consultation.
2. Installation by impact hammer, more than 5 piles per day WITH noise attenuation device (bubble curtain or temporary noise attenuation pile) = informal (NLAA) consultation.
3. Installation by impact hammer, 5 or less piles per day (no noise attenuation device) = informal (NLAA) consultation.
4. Installation by vibratory or jetting, no limit on number of piles in a day, no noise attenuation necessary = informal (NLAA) consultation.

## Consultation – Who has Federal Jurisdiction?



Protected  
Resources  
Division



Corals (NMFS)  
Johnsons seagrass (NMFS)  
Swimming sea turtles (NMFS)  
Small tooth sawfish (NMFS)  
Gulf sturgeon (NMFS)  
Mammals (NMFS)  
Nesting sea turtles (FWS)  
Manatees (FWS)  
Shorebirds (FWS)  
Beach Mice (FWS)



## Section 7 of the ESA – Interagency Consultation

### Informal

- MANLAA
- Concurrence

OR

Recommendation to  
change determination to

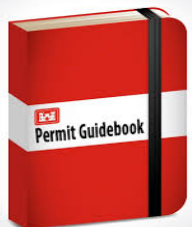
No Affect

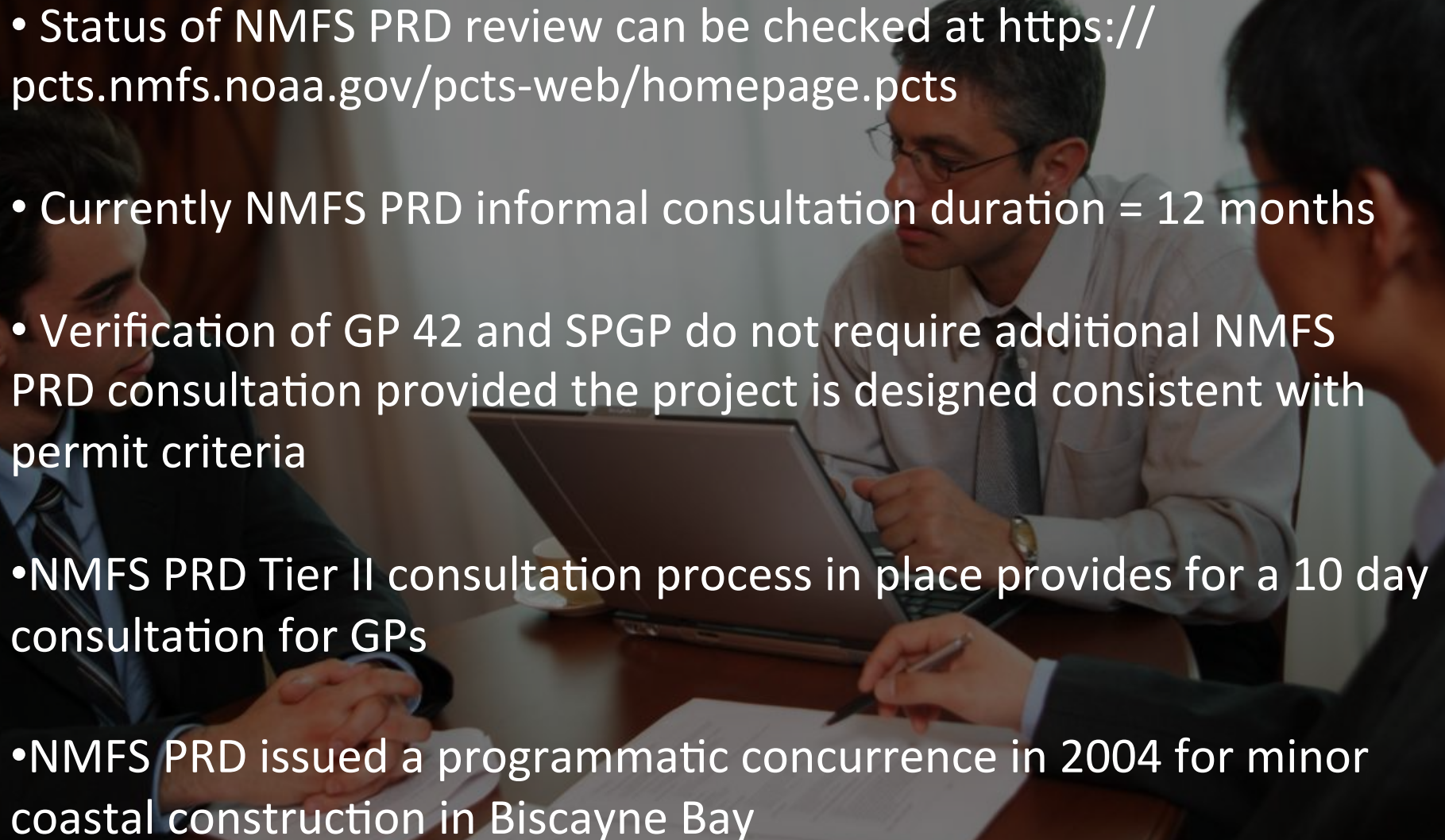
or

May Affect

### Formal

- May Affect
- Consultation = 135 days
- Service prepares a  
Biological Opinion



- Status of NMFS PRD review can be checked at <https://pcts.nmfs.noaa.gov/pcts-web/homepage.pcts>
  - Currently NMFS PRD informal consultation duration = 12 months
  - Verification of GP 42 and SPGP do not require additional NMFS PRD consultation provided the project is designed consistent with permit criteria
  - NMFS PRD Tier II consultation process in place provides for a 10 day consultation for GPs
  - NMFS PRD issued a programmatic concurrence in 2004 for minor coastal construction in Biscayne Bay
- 
- A photograph of three business professionals in a meeting. Two men and one woman are seated around a table. One man is pointing at a laptop screen, while the others look on. There are papers and a pen on the table.



## Biological Opinion

- Regional BO
- Project Specific BO

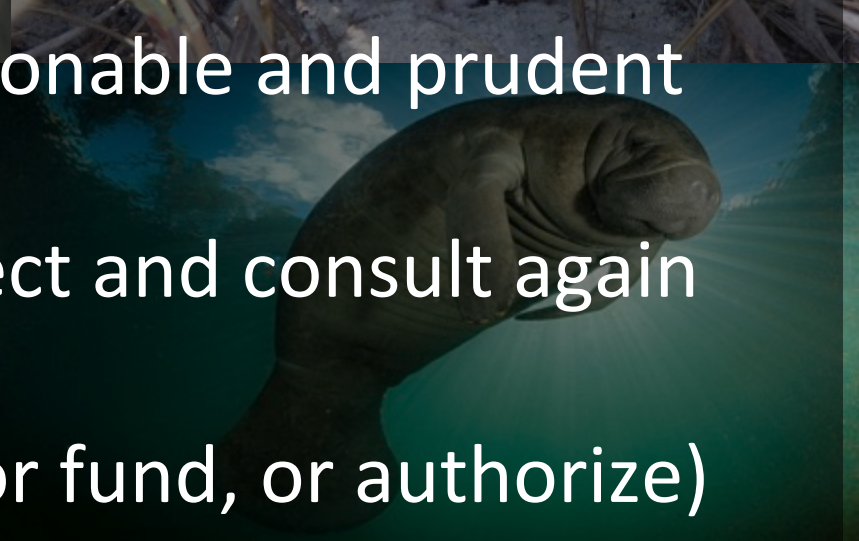


## Anticipated Programmatic Biological Opinion

- Shoreline stabilization
- Minor pile supported structures
- Maintenance dredging
- Reconfiguration within existing marinas
- Maintenance at intakes/outfalls
- Scientific survey activities
- Boat ramps
- Agricultural enhancement
- Transmission lines
- Marine debris
- Linear transportation

## After BO Issuance

1. Implement one of the reasonable and prudent alternatives;
2. Modify the proposed project and consult again with the FWS or NMFS;
3. Decide not to undertake (or fund, or authorize) the project;
4. Disagree with the opinion and proceed;
5. Apply for an exemption.



# Endangered Species - The Marine Environment

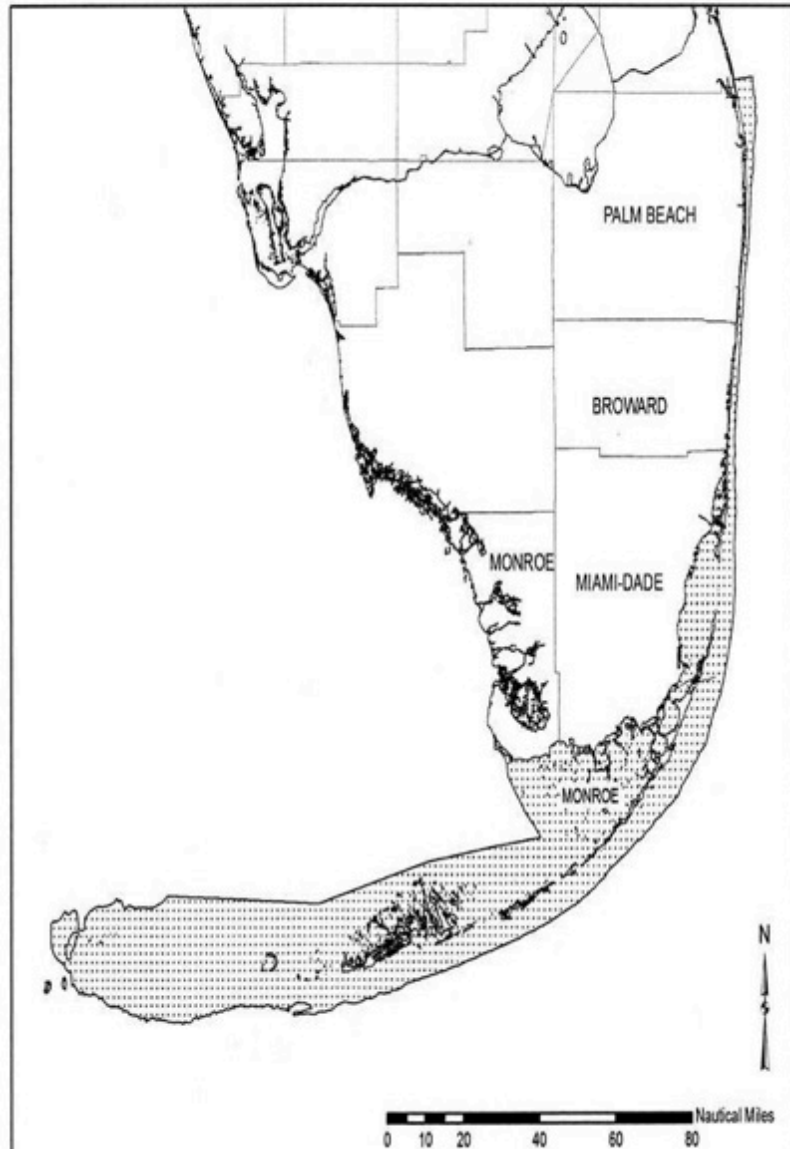


## Species Specific Guidance



# Endangered Species - The Marine Environment

Critical Habitat for Elkhorn and Staghorn Corals  
Area 1: Florida

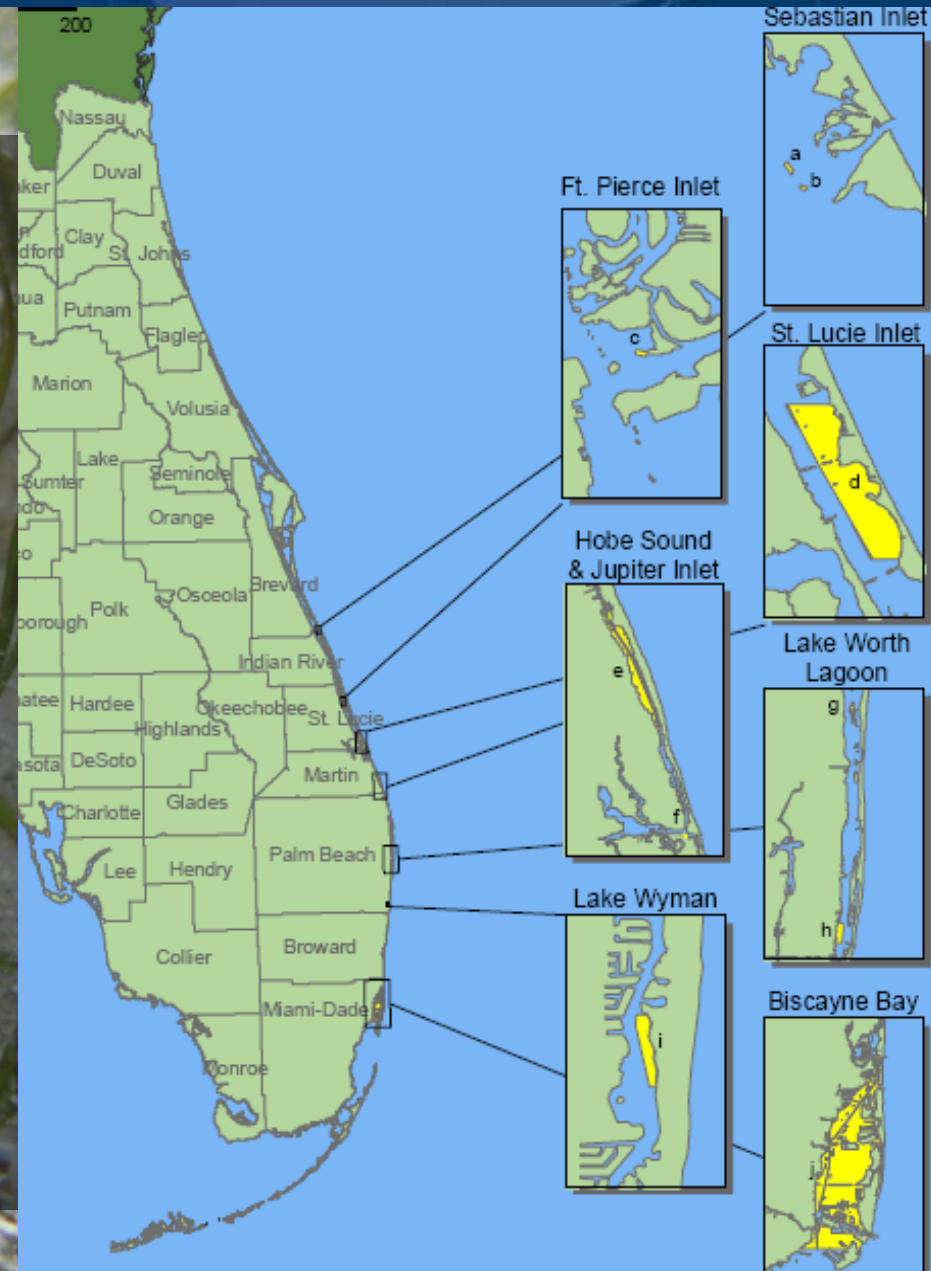


## *Acropora* = NMFS

- Survey Guidelines
- Designated Critical Habitat
- NMFS Final Recovery Plan  
March 2015
- No regional BO - each BO is project specific
  - Pre- & Post-construction monitoring
  - Authorized "Take"

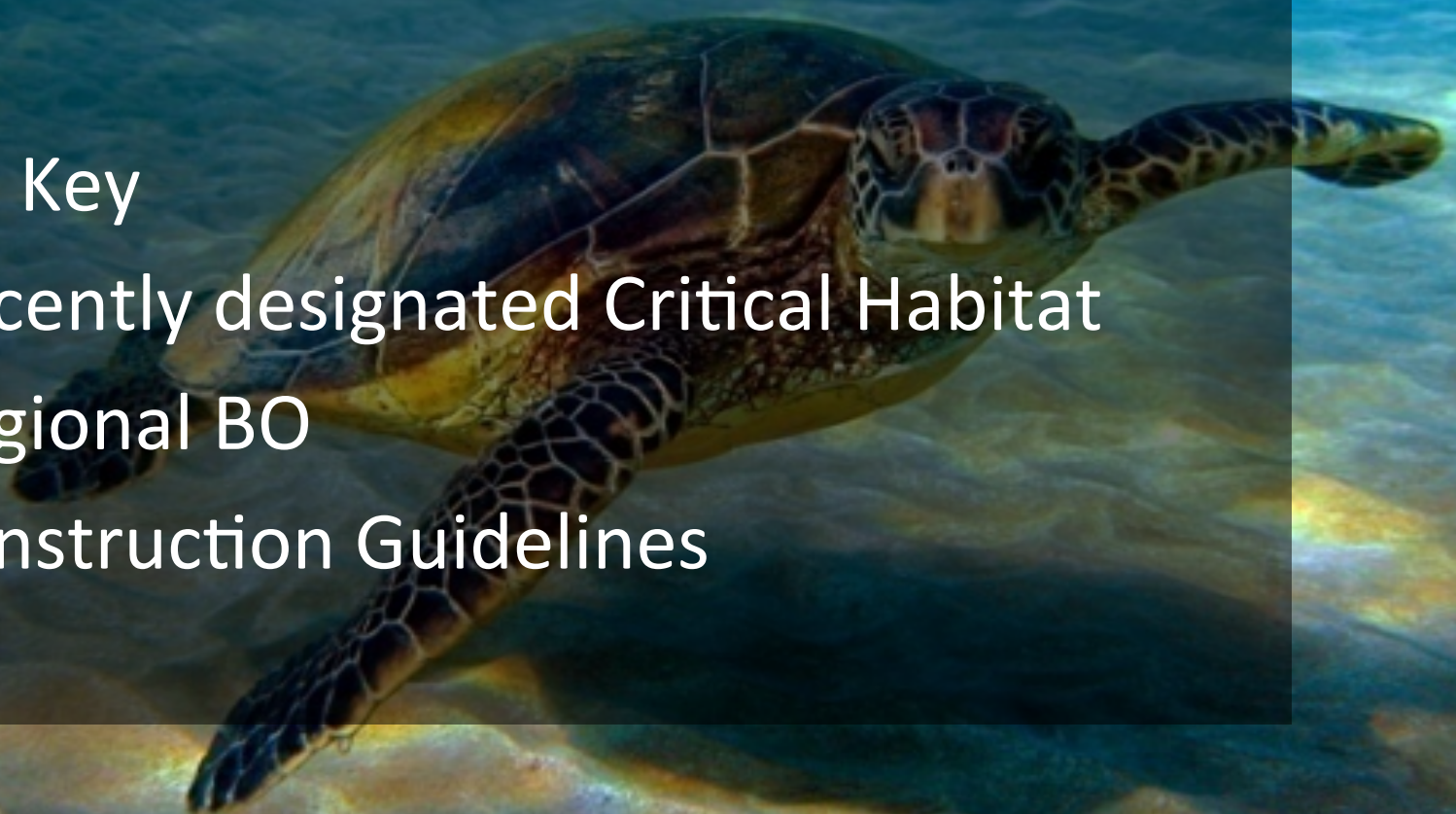
Johnsons seagrass = NMFS

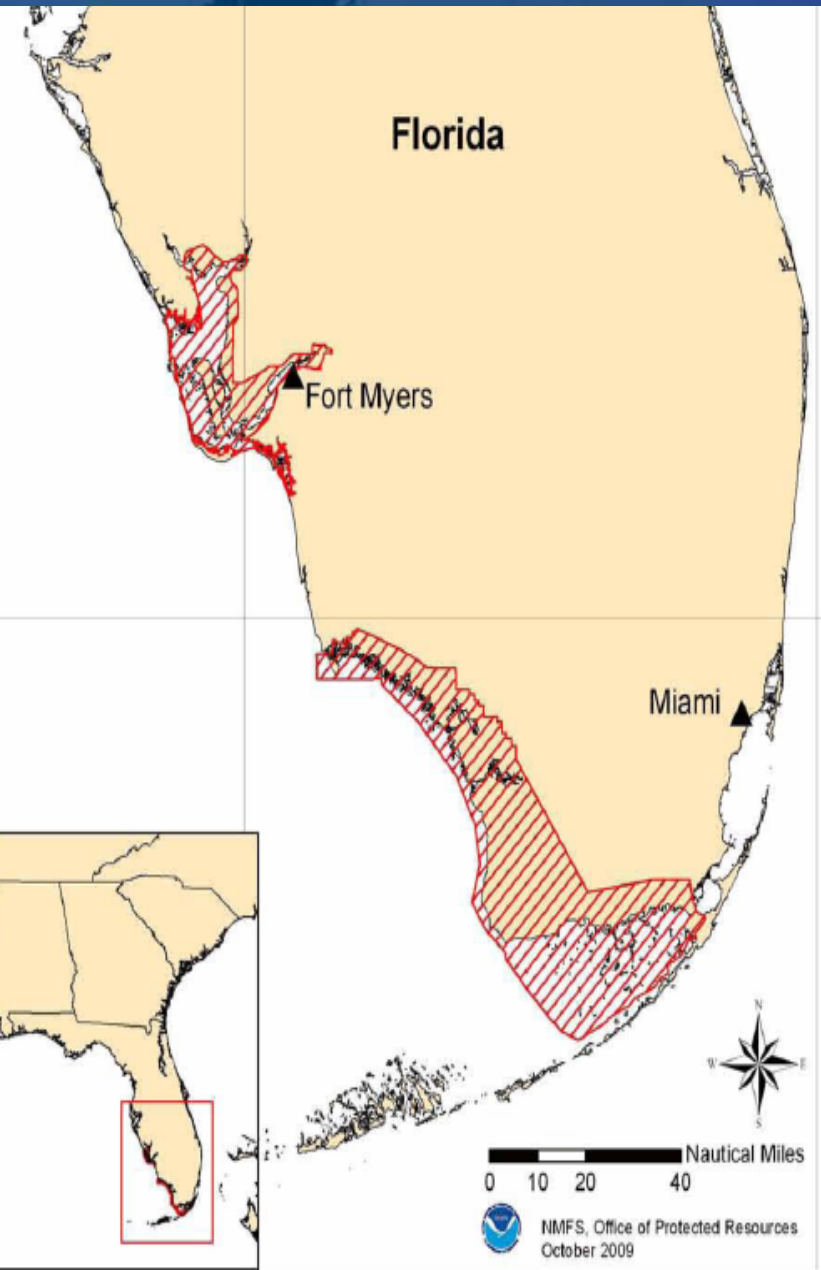
- Survey guidelines
- Johnsons Key
- Dock construction guidelines
- Critical Habitat
- Programmatic consultation letter



## Swimming sea turtles = NMFS

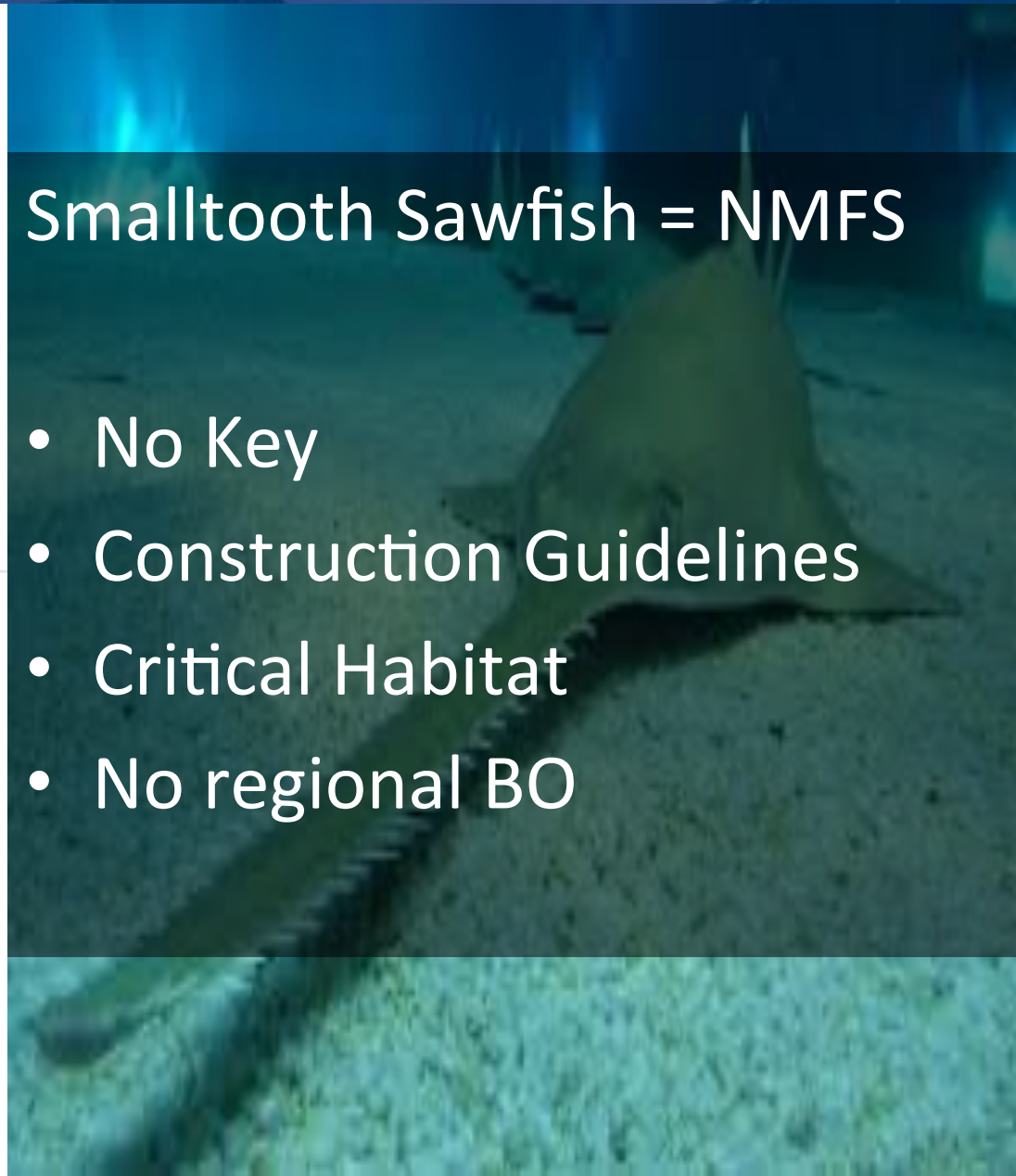
- No Key
- Recently designated Critical Habitat
- Regional BO
- Construction Guidelines





## Smalltooth Sawfish = NMFS

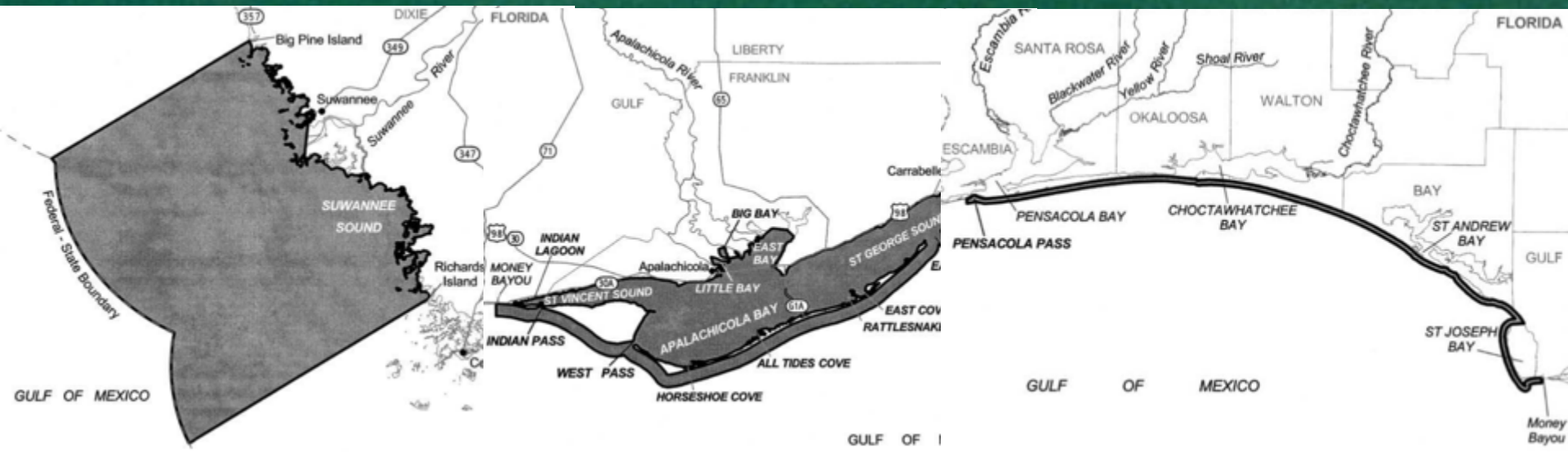
- No Key
- Construction Guidelines
- Critical Habitat
- No regional BO





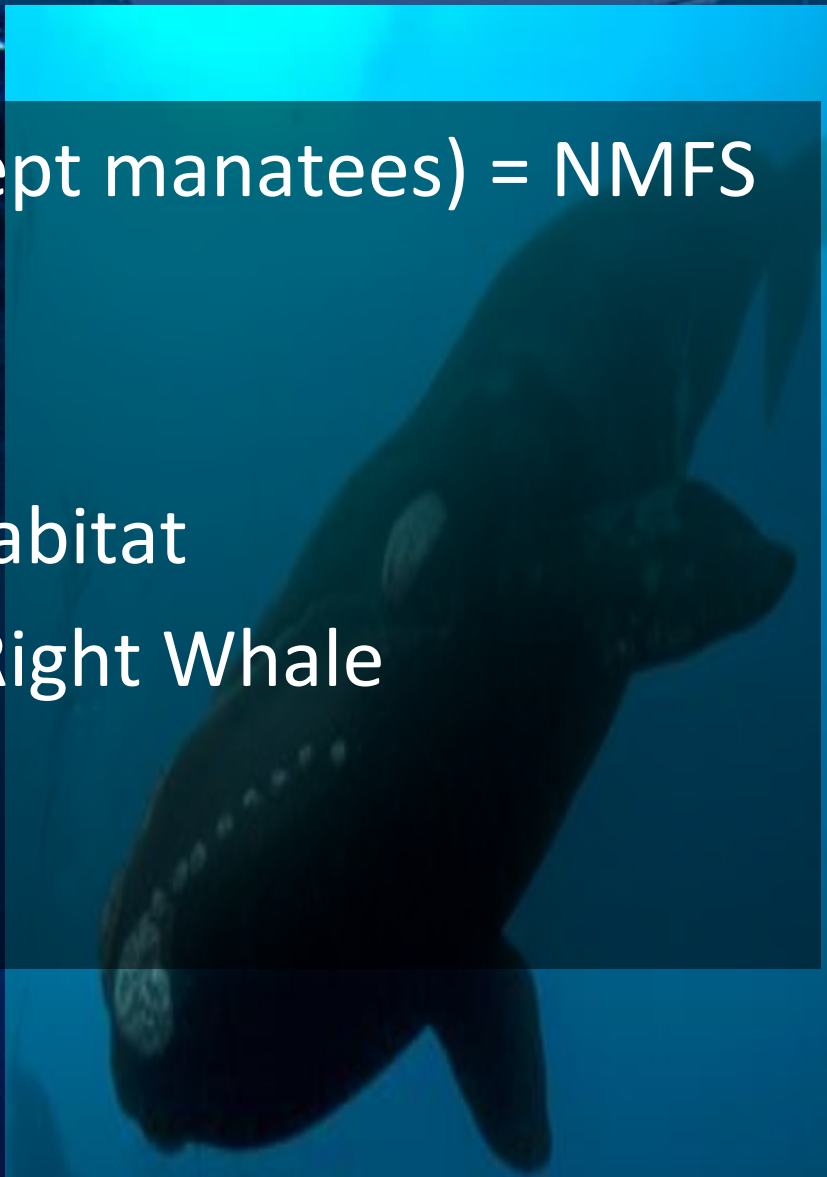
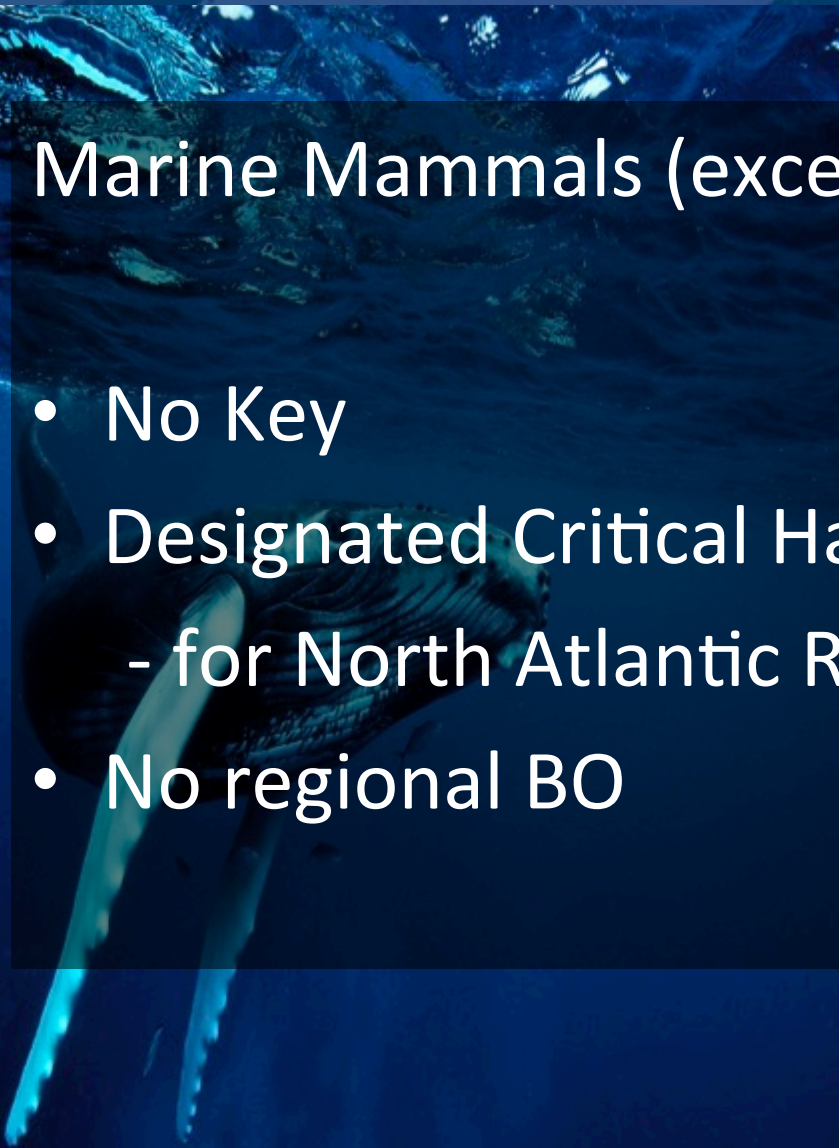
## Gulf Sturgeon = NMFS

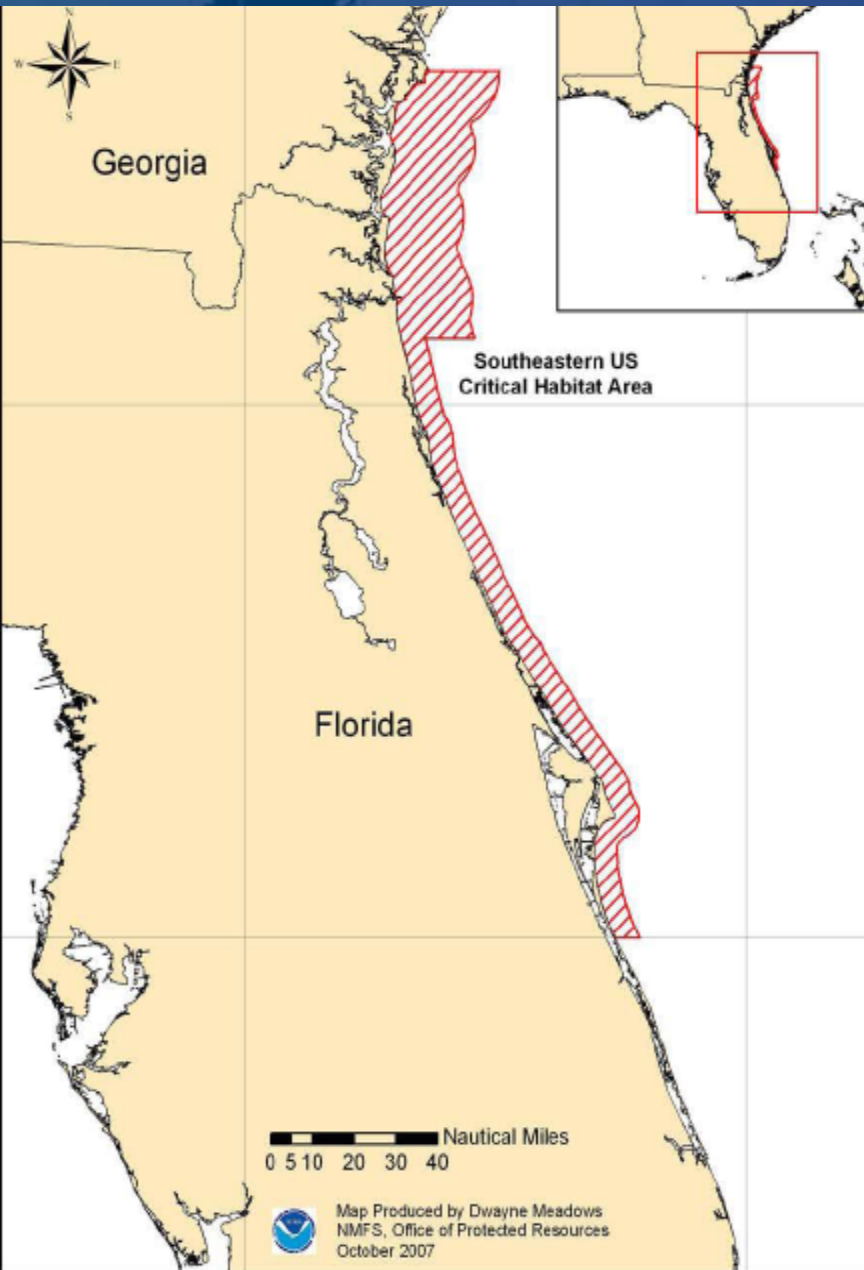
- No Key
- Critical Habitat – multiple maps
- No regional BO



## Marine Mammals (except manatees) = NMFS

- No Key
- Designated Critical Habitat
  - for North Atlantic Right Whale
- No regional BO





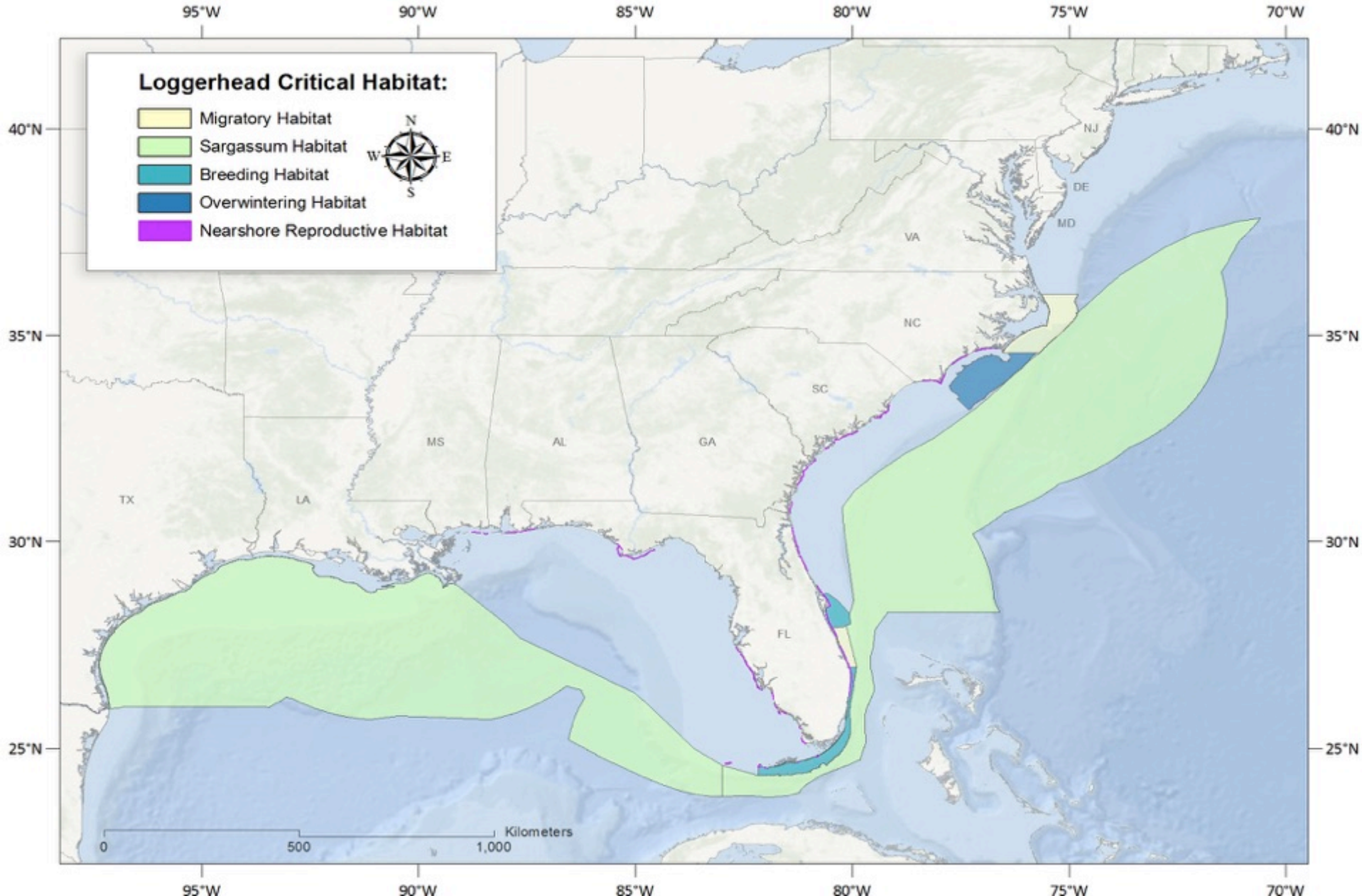
## North American Right Whale Critical Habitat



## Nesting Sea Turtles = FWS

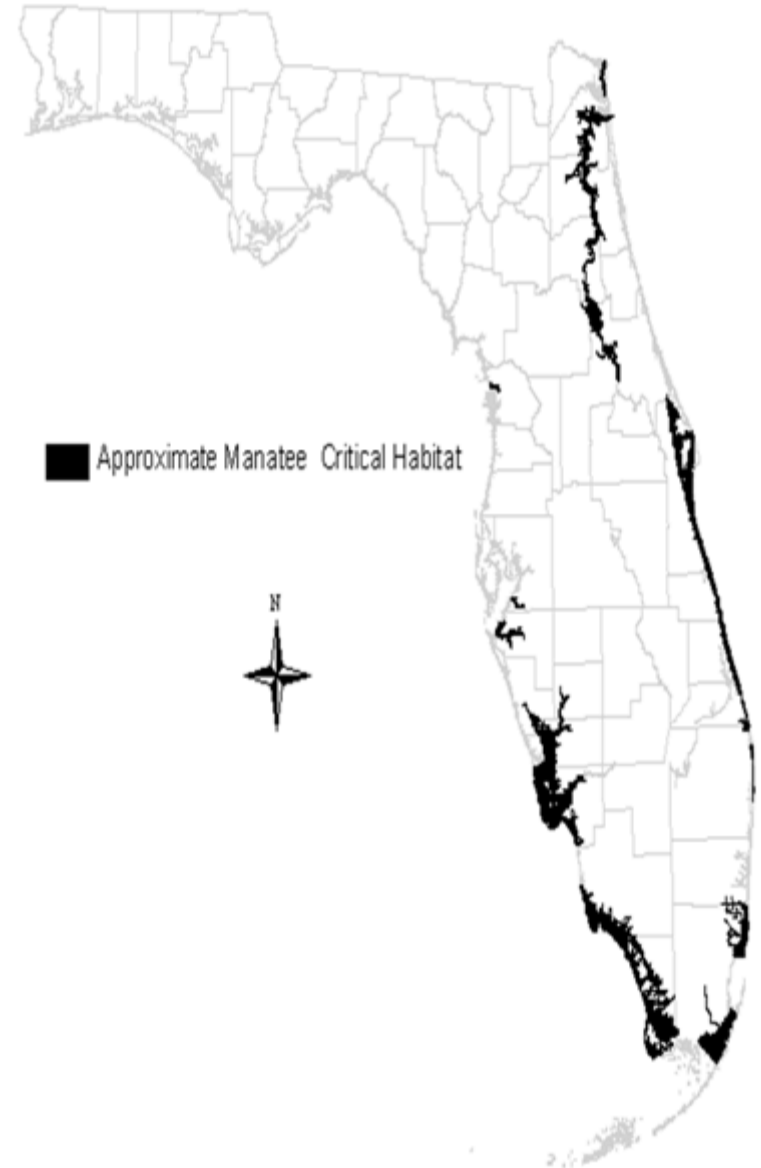
- New Critical Habitat for Loggerheads
- Covered under State Programmatic BO
  - Construction conditions
  - Lighting
  - Nesting success monitoring
  - Escarpment/compaction monitoring

# Endangered Species - The Marine Environment



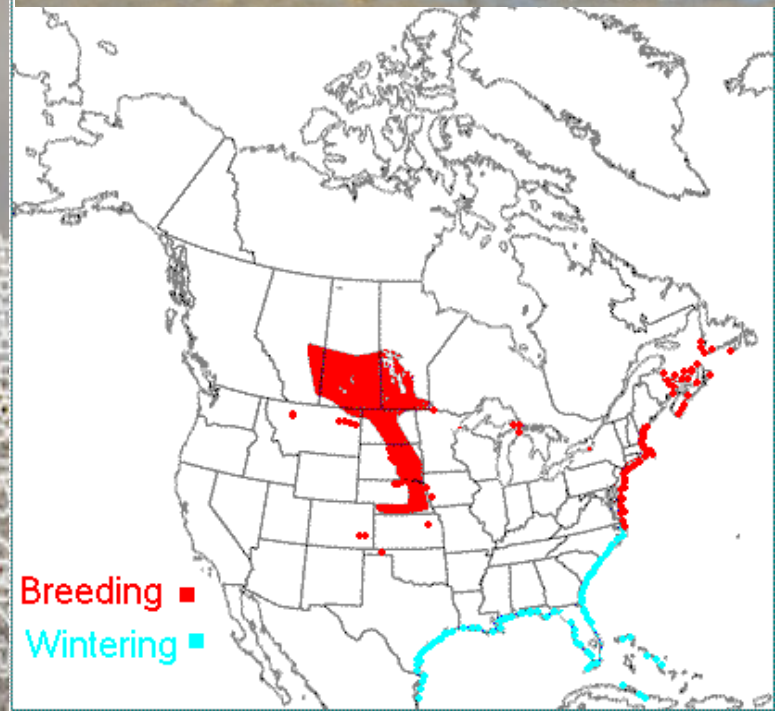
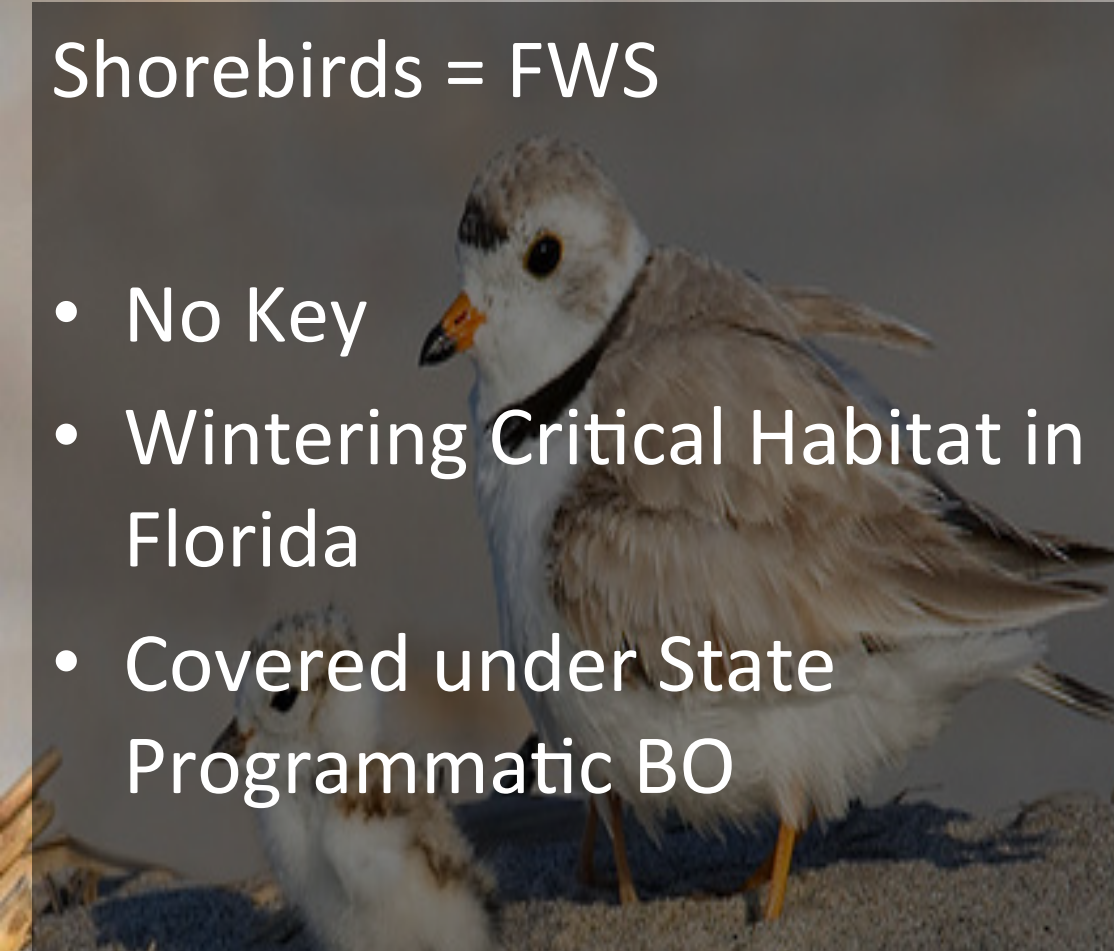
## Manatees = FWS

- April 2013 Manatee Key
- Manatee Construction Conditions
- No regional BO



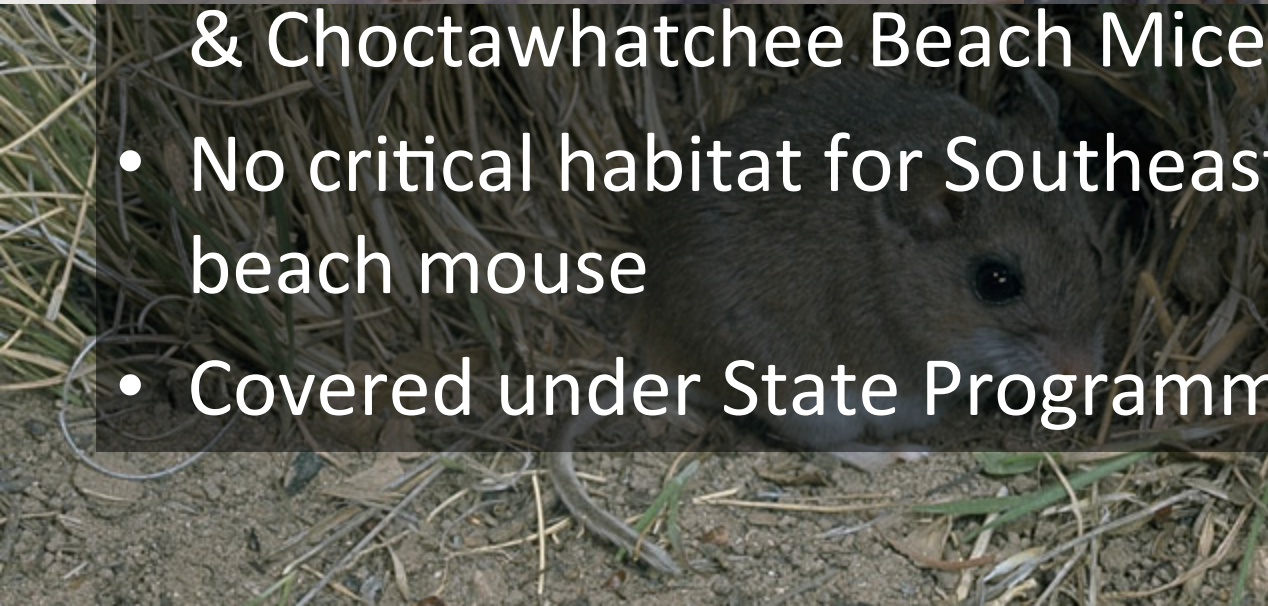
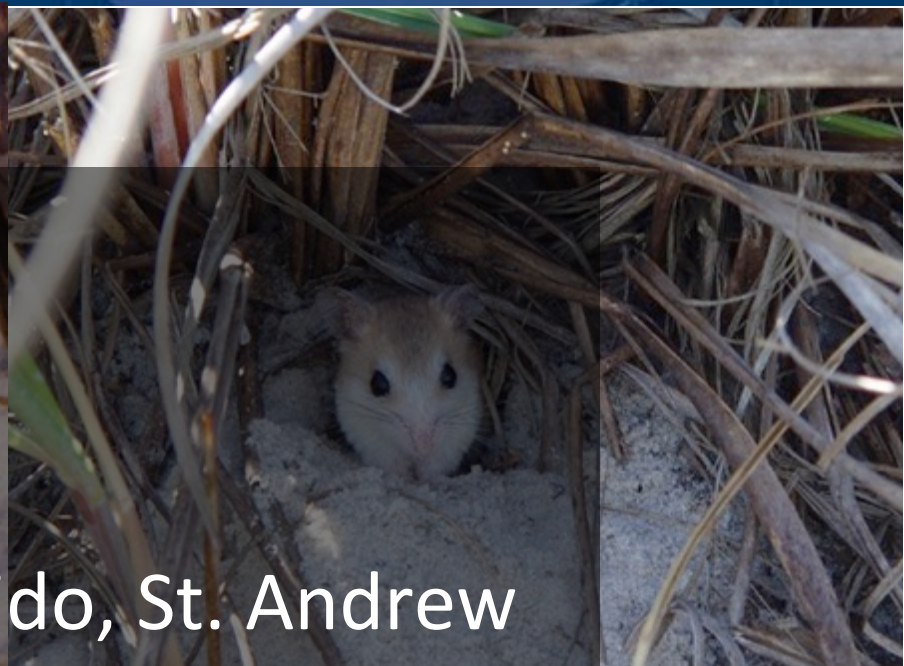
## Shorebirds = FWS

- No Key
- Wintering Critical Habitat in Florida
- Covered under State Programmatic BO



## Beach Mice = FWS

- No Key
- Critical Habitat for Perdido, St. Andrew & Choctawhatchee Beach Mice
- No critical habitat for Southeastern beach mouse
- Covered under State Programmatic BO







SEE? RIGHT THERE, BETWEEN "EAGLE, BALD" AND "JAY, FLORIDA SCRUB," THE ENDANGERED SPECIES ACT HAS BEEN ADDED TO THE ENDANGERED SPECIES LIST!!

THAT HURTS MY BRAIN...



Cartoon by Jeff Parker