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# Notice of Proposed Rulemaking: North Atlantic Right Whale Critical Habitat

South Atlantic Fisheries Management Council  
Protected Resources Committee Meeting

March 3, 2015

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# Preface

## Presentation excludes:

- Critical habitat-related actions in North Pacific

## Presentation touches on:

- Critical habitat in NE US (Unit 1)

## Presentation focuses on:

- Critical habitat in SER (Unit 2)

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# Outline

- Existing Critical Habitat
- Why Revisit RW Critical Habitat?
- Identifying Critical Habitat
- Proposed Critical Habitat
- What “May Effect” Critical Habitat
- Information

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# Background: Northern Right Whale Critical Habitat

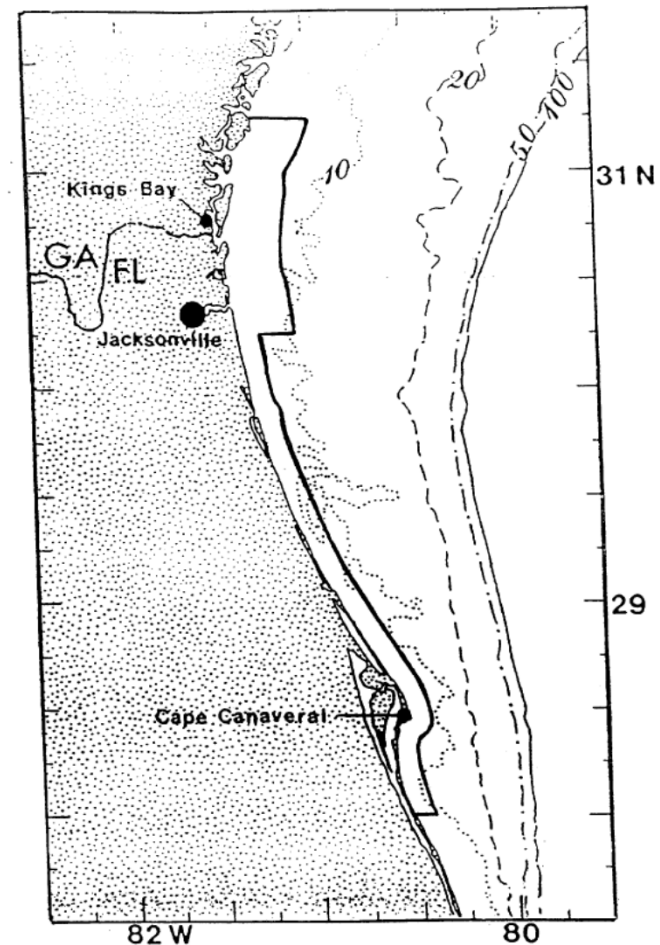
Critical habitat in North Atlantic was designated in 1994

- Areas Included:
  - Cape Cod Bay
  - Stellwagen Bank
  - Great South Channel
  - Waters adjacent to GA and FL coasts
- Areas determined to provide critical feeding, nursery, and calving habitat

# Background: 1994 Critical Habitat

Based primarily on  
opportunistic sightings

Late 1980's: calving area  
was "rediscovered" by  
researchers



## Background: 2008 Right Whale Listing (73 FR 12024)

- Was northern right whale (*Eubalaena* spp.)
- Now two endangered species:
  - North Atlantic right whale (*E. glacialis*)
  - North Pacific right whale (*E. japonica*)

# Why Revisit Right Whale Critical Habitat?

- 2008 Listing determination, and
- 2010 NMFS determination that a 2009 Petition to revise the 1994 critical habitat presented information warranting a revision (75 FR 61690)

## ESA Section 3 Defines Critical Habitat

- i) The specific areas within the geographical area occupied by the species, at the time it was listed, on which are found those physical or biological features
  - I) essential to the conservation of the species and
  - II) which may require special management considerations or protection; and
- ii) specific areas outside the geographical area occupied by the species at the time it is listed...that ...are essential for the conservation of the species.

# Essential Conservation Objective

“Facilitating successful calving by protecting the species’ calving area is a key conservation objective.” (50 FR 9314)

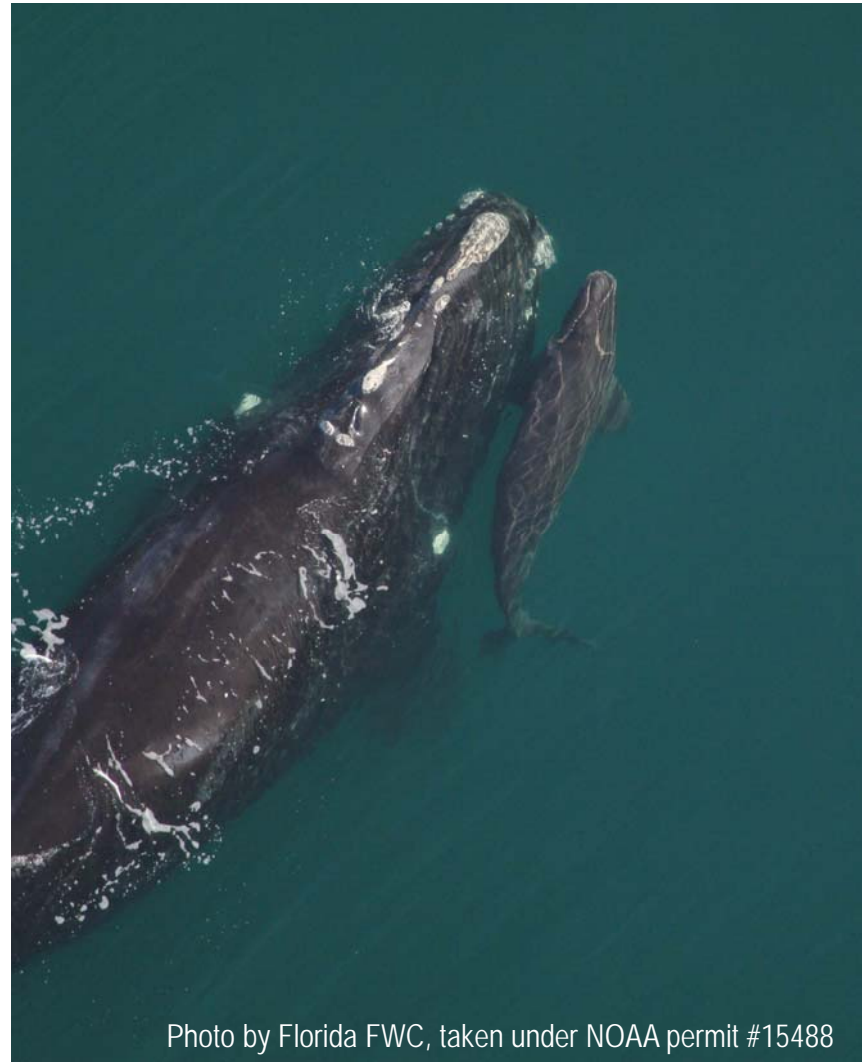


Photo by Florida FWC, taken under NOAA permit #15488

# Identifying specific areas that meet CH definition

1. What are the functions this area provides that promote successful calving and rearing?
2. What are the physical or biological features that are essential because they provide calving area functions in these areas?



Photo by Wildlife Trust, NOAA Permit #594-1759

# NARW Calving Habitat Essential Features

1. Calm seas surface conditions of Force 4 or less on the Beaufort Wind Scale;
2. Sea surface temperatures from a minimum of 7°C and never more than 17°C; and
3. Water depths of 6 to 28 meters, where...

these features simultaneously co-occur over contiguous areas of at least 231 km<sup>2</sup> of ocean waters during the months of November through April.

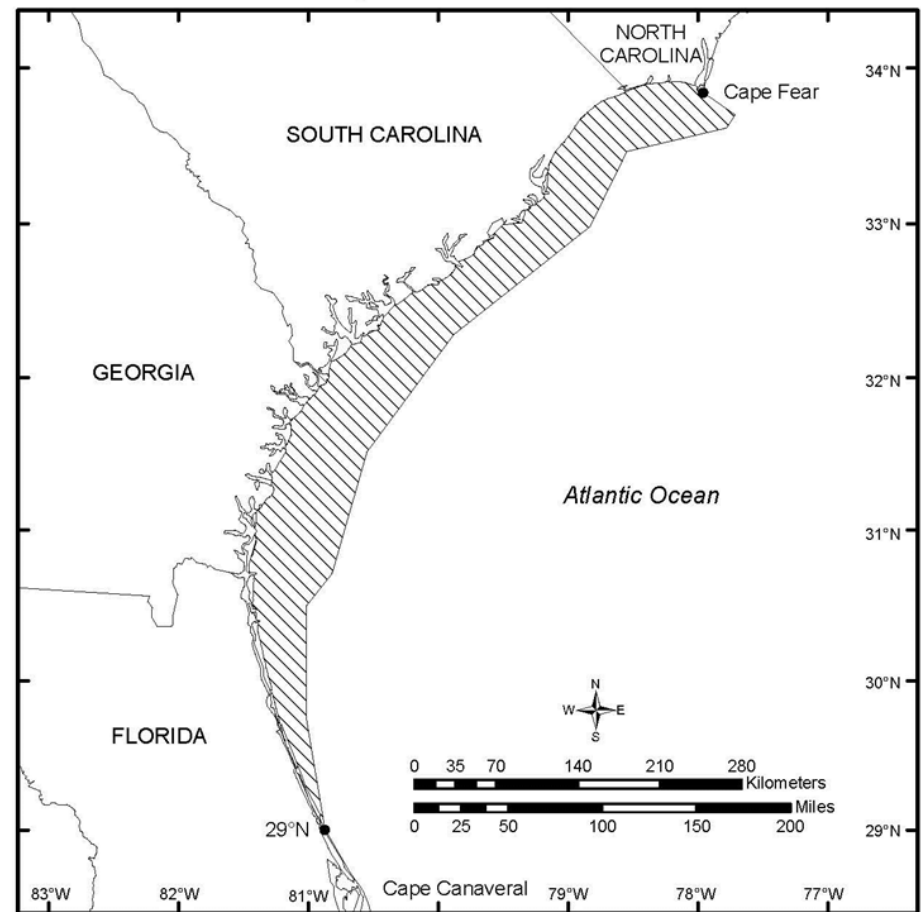
Photo by Florida FWC, taken under NOAA permit #15488

## Specific Areas on Which Are Found the Physical and Biological Features of Calving Habitat

- Based on two predictive habitat models: Garrison (2007)/Keller *et al.* (2012), and Good *et al.* (2008)
- 75<sup>th</sup> percentile from Garrison (2007)/Keller *et al.* (2012) and Good's (2008) habitat area selected by at least three of the monthly models account for 91% and 85% of all observed right whale mother-calf pair sightings, respectively.

## Proposed Calving Area Critical Habitat (Unit 2)

All marine waters from Cape Fear, NC, southward to 29° N latitude (approximately 43 miles north of Cape Canaveral, FL) within the area bounded on the west by the shoreline and the 72 COLREGS lines, and on the east by rhumb lines connecting specific points described.

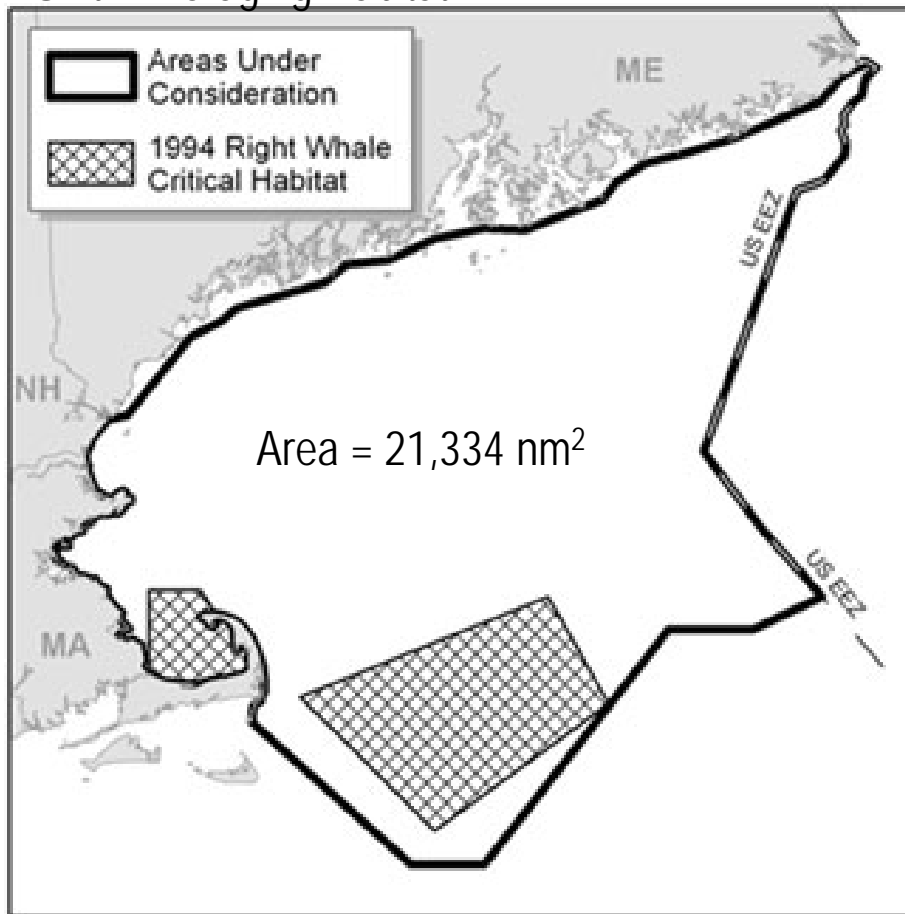


# NARW Foraging Habitat Essential Features

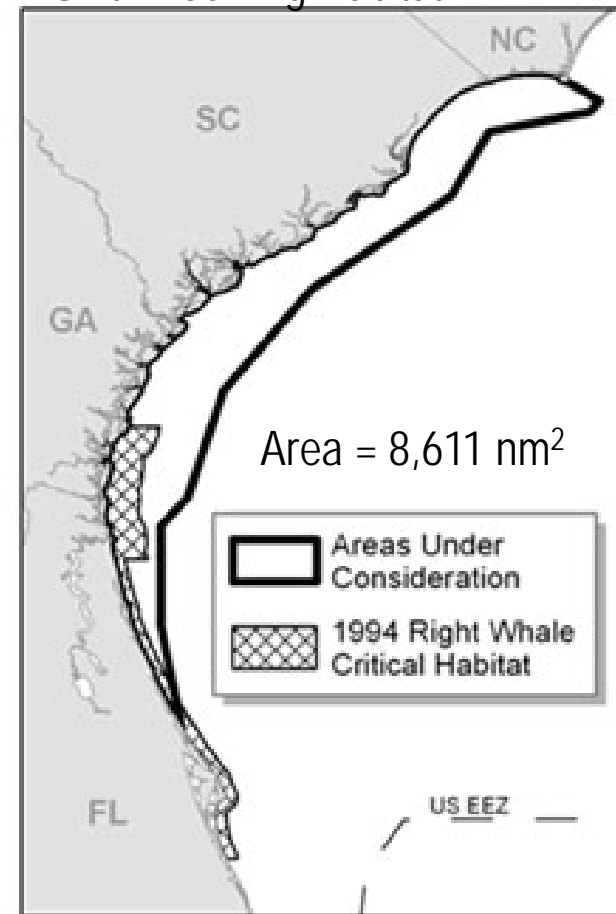
- Physical oceanographic conditions & structures of the Gulf of Maine and Georges Bank region that combine to distribute and aggregate *C. finmarchicus* (prevailing currents, circulation patterns, bathymetric features, oceanic fronts, etc.)
- Low flow velocities in Jordan, Wilkinson, and Georges Basins that allow diapausing *C. finmarchicus* to aggregate passively below the convective layer ...
- Late stage *C. finmarchicus* in dense aggregations in the gulf of Maine and Georges Bank region; and
- Diapausing *C. finmarchicus* in aggregations in the gulf of Maine and Georges Bank region

# Comparison of Current and Proposed Critical Habitat

Unit 1: Foraging Habitat



Unit 2: Calving Habitat



# What “May Effect” Critical Habitat?

## Based on Past Consultations

- National Pollution Discharge Elimination System (NPDES) permitting
- Oil spill response
- Dredging and spoil disposal
- Marine Construction Permitting
- Construction and operation of energy facilities

# What “May Effect” Critical Habitat?

## New Categories Anticipated:

- Oil and gas exploration and development
- Offshore alternative energy development
- Directed copepod fisheries
- Marine aquaculture

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# Supplementary Information

- Biological Source Document
- Draft ESA Section 4(b)(2) Report

Inbox (1,107) - barb.zood... My Drive - Google Drive Regulations.gov - Docket www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0085

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### Endangered and Threatened Species; Critical Habitat for Endangered North Atlantic Right Whale

**Docket Folder Summary** [View all documents and comments in this Docket](#)

**Docket ID:** NOAA-NMFS-2014-0085 **Agency:** National Oceanic and Atmospheric Administration (NOAA)  
**Parent Agency:** Department of Commerce (DOC)

**Summary:**  
National Marine Fisheries Service proposes to revise critical habitat for the North Atlantic right whale. This proposal would result in modifying the critical habitat that was designated in 1994.

**RIN:** 0648-AY54 **Impacts and Effects:** None **CFR Citation:** 50 CFR 226, 50 CFR 229 **Priority:** Other Significant

[+ View More UA and Regulatory Plan Information and Docket Details](#)

#### Primary Documents [View All \(1\)](#)

Document Type	Title	Posted	ID	Comments
PR	Endangered and Threatened Species: Critical Habitat for Endangered North Atlantic Right Whale	02/20/2015	NOAA-NMFS-2014-0085-0001	<a href="#">Comment Now!</a> Due Apr 21, 2015 11:59 PM ET

#### Supporting Documents [View All \(2\)](#)

Document Type	Title	Posted	ID	Comments
SR	Draft 4(b)(2) Report 020415	02/20/2015	NOAA-NMFS-2014-0085-0002	Comments Not Accepted
SR	NARW_Source_Document Final 072114	02/20/2015	NOAA-NMFS-2014-0085-0003	Comments Not Accepted

#### Comments

No comments posted.

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8 Comments Received\*

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#### Regulatory Timeline

- Pre Rule
- Proposed Rule Current Stage
- Final Rule

#### Agency Contact

**Donna Wieting**  
Fishery Biologist, Office of Protected Resources  
NOAA  
DOC  
301 713-2322  
National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910  
Silver Spring, MD 20910



New England Aquarium