



# **Protected Marine Species Cape Cod and the Islands**

**Protected Resources Division  
National Marine Fisheries Service  
Northeast Region**

A blue whale breaching the ocean surface, creating a large splash of white water. The whale's dark, mottled back is visible above the water, and its tail is partially submerged. The background is a deep blue ocean with ripples.

# **Endangered Species Act (ESA)**

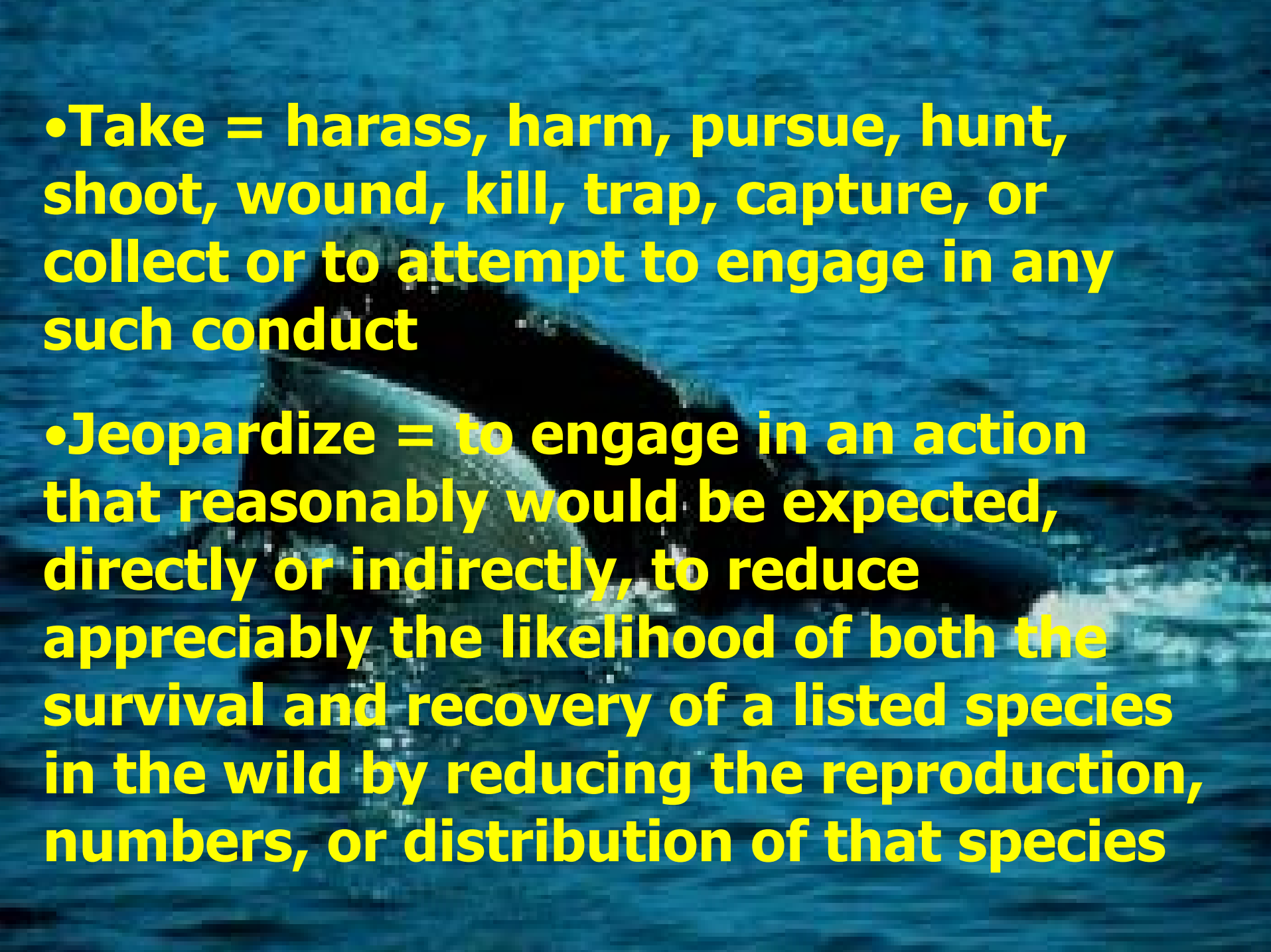
## **Section 7 Consultation**

## **Section 7 (a)(2)**

**Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded or carried out by such agency (action agency) is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat.**

# ESA Definitions

- **Endangered = any species in danger of extinction throughout all or a significant portion of its range**
- **Threatened = any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range**



**•Take = harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in any such conduct**

**•Jeopardize = to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species**

# Consultation Process

- ① **Identify federal agency action**
- ② **Are threatened or endangered species or critical habitat present?**
  - If no, end consultation process
- ③ **If yes, then compile information to assist in determining if listed species are likely to be affected by the proposed action**
  - information can be compiled in a biological assessment or other document (such as an EIS)
  - if NMFS concurs that listed species are not likely to be adversely affected then consultation ends
  - if it is determined that the proposed action may affect listed species and/or critical habitat then formal consultation proceeds

# Consultation Process (cont.)

- ④ **Formal consultation is conducted to determine if the action is likely to jeopardize the continued existence of listed species or destroy or modify critical habitat**

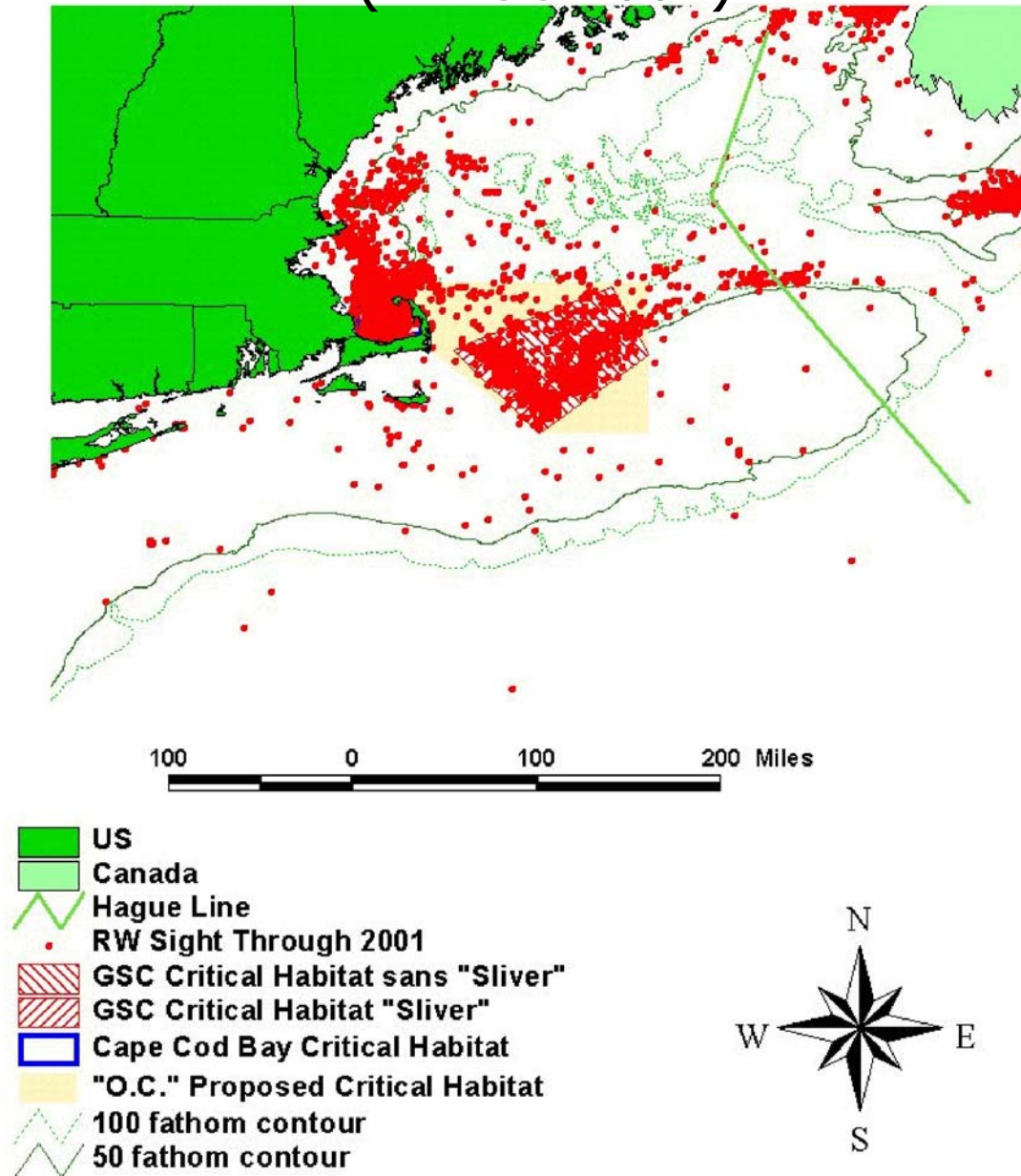
**Formal consultation ends with the issuance of a Biological Opinion by NMFS**



# North Atlantic right whale (endangered)



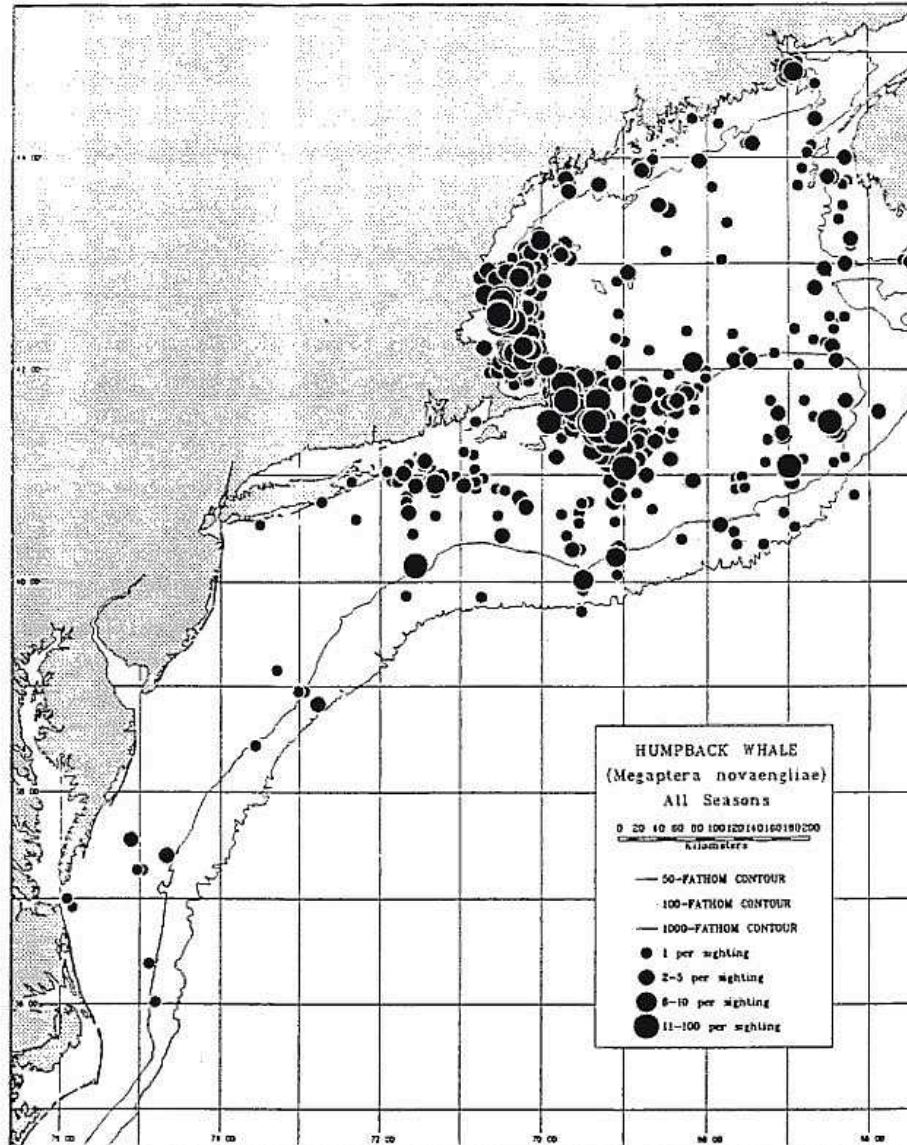
# North Atlantic Right Whale Sightings through 2001 (NEFSC 2001)



# humpback whales (endangered)



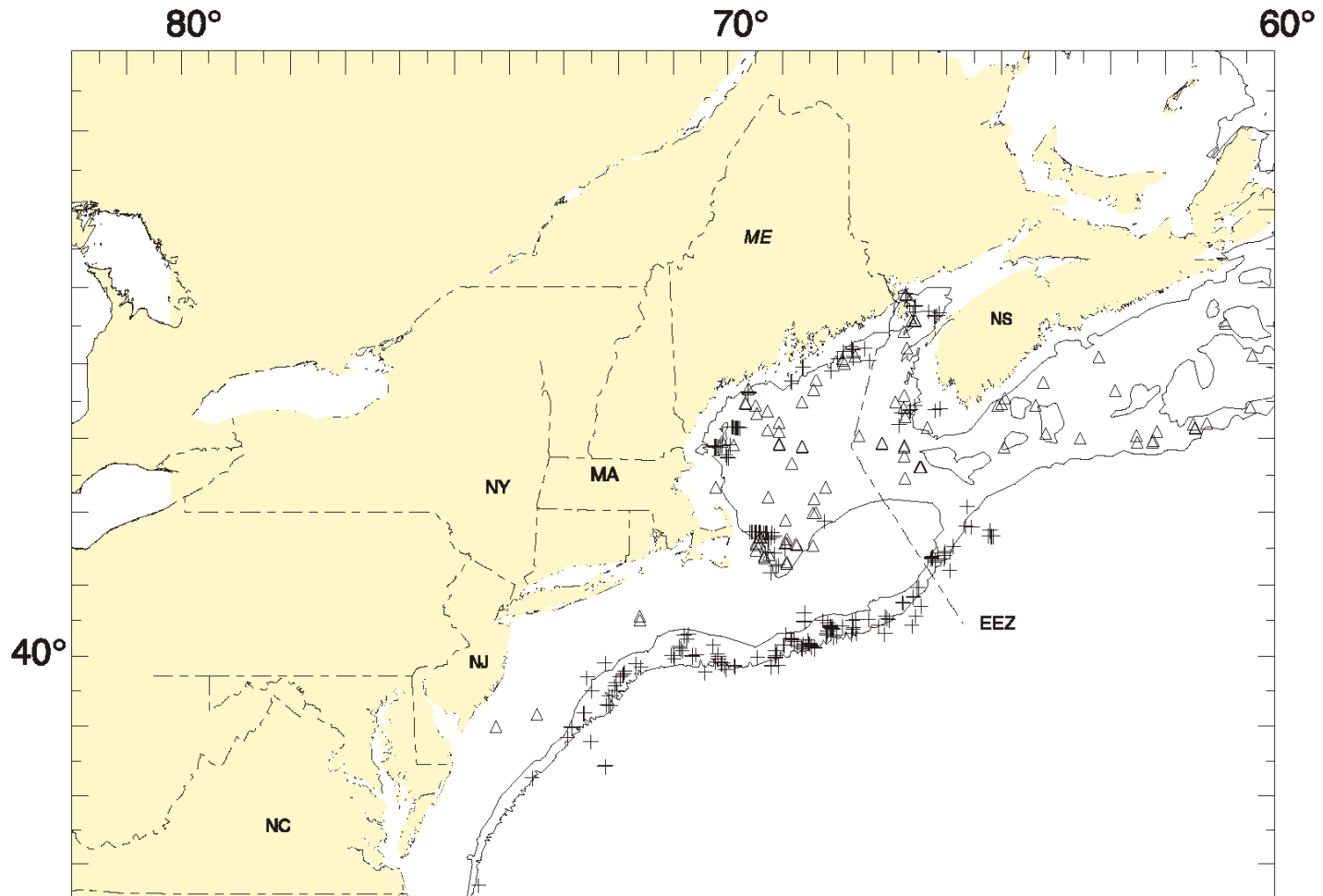
# Distribution of humpback whales



# fin whale (endangered)



# Distribution of fin whale sightings from NEFSC and SEFSC shipboard and aerial surveys during the summer in 1990-1998.



**(NEFSC Marine Mammal Stock Assessment Report, 2001)**

# loggerhead sea turtle (threatened)



# Kemp's ridley sea turtle (endangered)



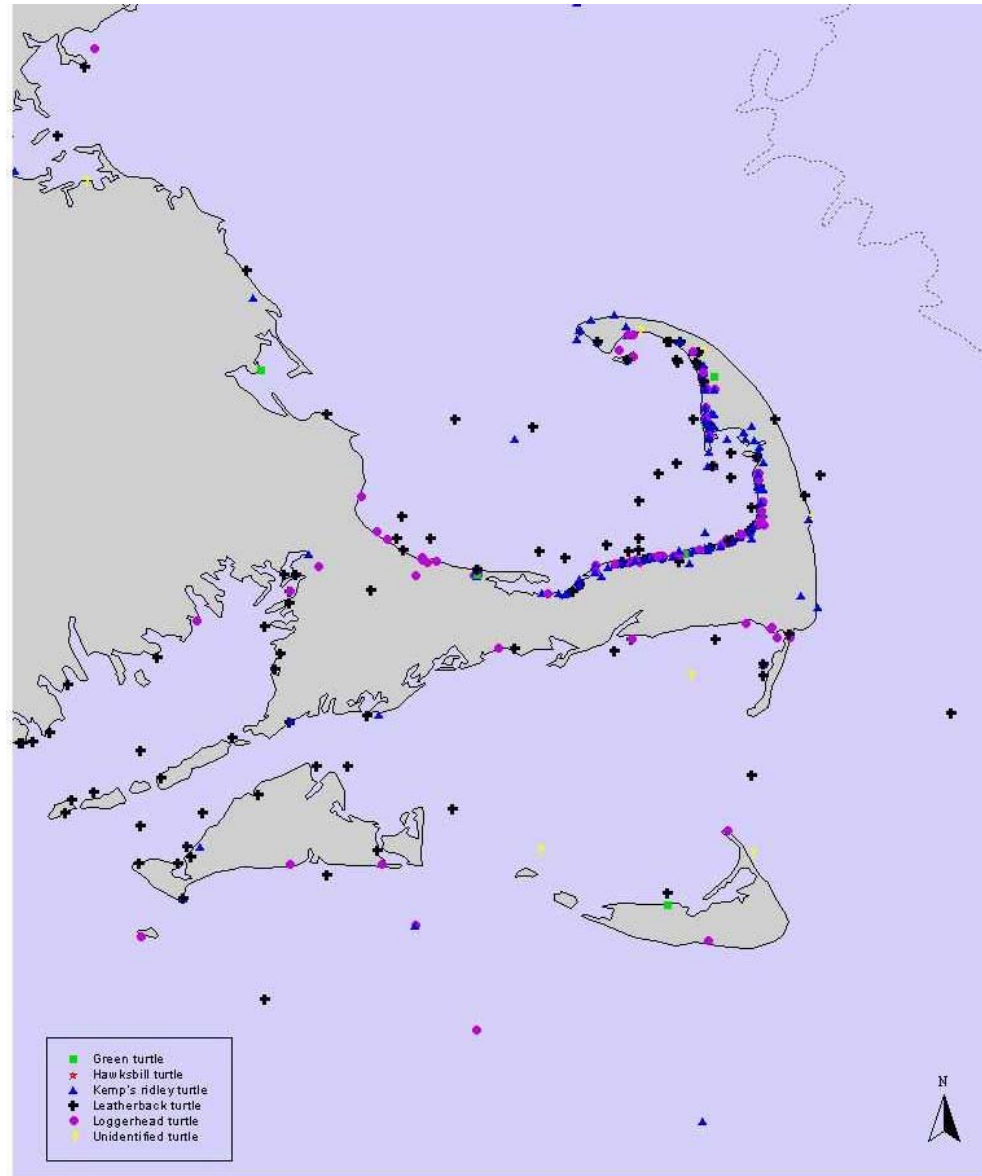
# leatherback sea turtle (endangered)



# green sea turtle (threatened/endangered)



# Sea Turtle Strandings on Cape Cod and the Islands 1980-1997



# **Marine Mammal Protection Act (MMPA)**

- **Marine Mammals under the Jurisdiction of NMFS**
  - whales, dolphins, porpoises, seals, sea lions
- **Marine Mammals under the Jurisdiction of USFWS**
  - walruses, polar bears, sea otters, manatees

# Purpose of the MMPA

- Prevent the extinction and depletion of certain species and population stocks of marine mammals as a result of man's activities
- Prevent species and population stocks from diminishing below their optimum sustainable level
- Take measures to replenish any species or population stock that has diminished below its optimum sustainable level
- Expand man's understanding of the ecology, population dynamics, and reproductive behavior of marine mammals
- Program for the conservation of marine mammals

# Definitions

- **Take = to harass, hunt, capture, or kill, or attempt to harass, hunt, capture or kill any marine mammal**
- **Harassment = any act of pursuit, torment, or annoyance which**
  - **has the potential to injure a marine mammal or marine mammal stock in the wild (Level A);**
  - **has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns (i.e. migration, breathing, nursing, breeding, feeding or sheltering) (Level B)**

# harbor seal

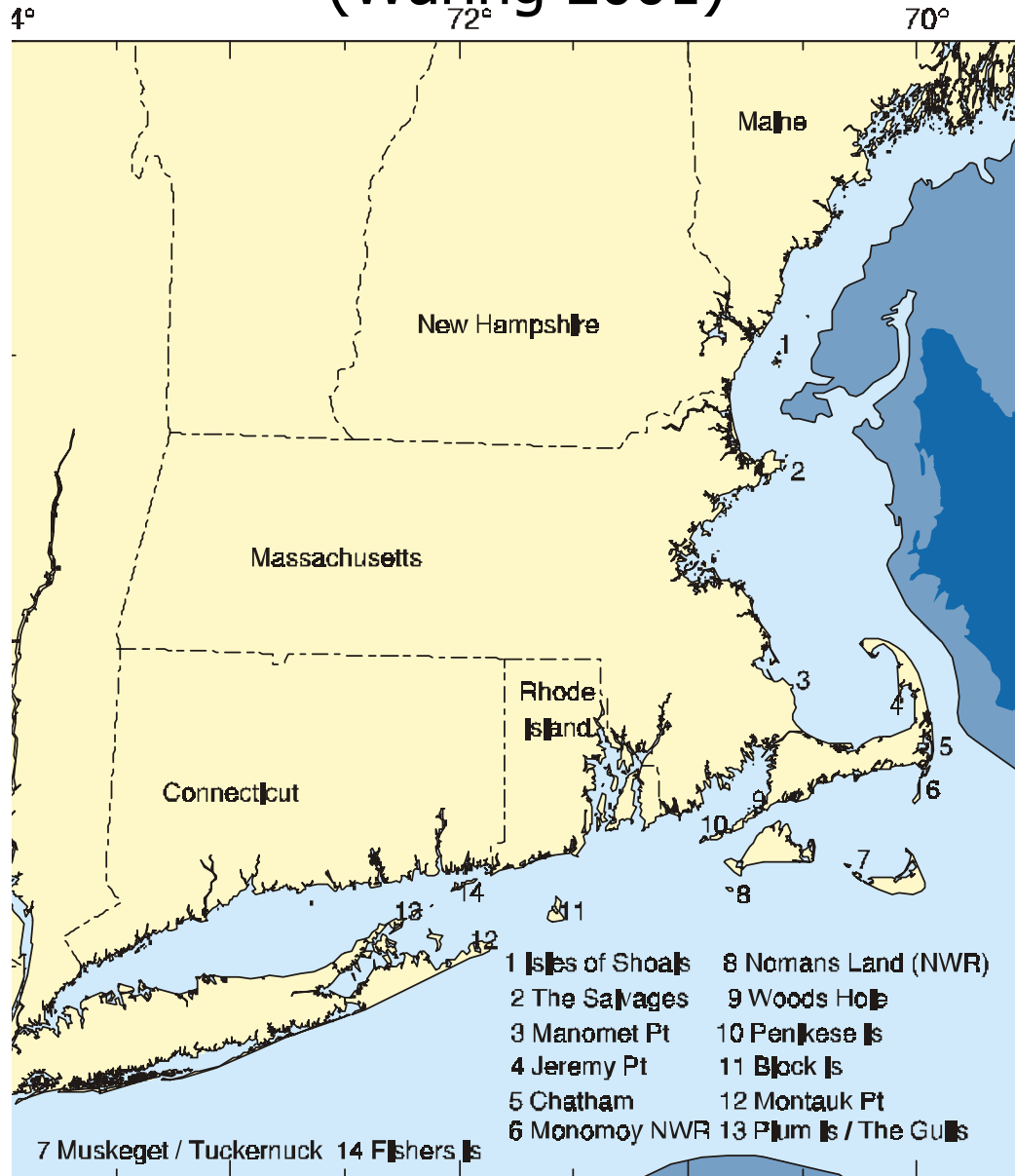


# grey seal



"Casino"/MMSC/WhaleNet

# Location of principal harbor seal and/or grey seal winter haul out locations in Southern New England (Waring 2001)



# Key questions regarding impacts of the wind energy project on protected species

- **Construction/decommissioning methodologies**
- **Electro-magnetic fields**
- **Vibrations/noise**
- **Change in ecosystem dynamics**

