



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

Arthur Sawyer
368 Concord Street
Gloucester, MA 01930

MAY 15 2012

Dear Mr. Sawyer:

Thank you for your letter of May 2, 2012 requesting that we immediately reconvene the Harbor Porpoise Take Reduction Team (TRT) to develop alternatives to the TRT's consequence closure area strategy. Your letter stated that you believe that the consequence closures proposed for the Fall of 2012 would have very serious, negative, social and economic impacts on small boats and fishing communities in New England at a time when these vessels already are facing severe economic hardship from other fishing restrictions.

As you know, the consequence closure strategy was based on a consensus recommendation by the TRT. Members of the TRT agreed that the plan should include strong incentives for compliance with acoustic deterrent (pinger) requirements to ensure that New England gillnet fishermen would use and maintain pingers. Rather than implementing immediate closures due to past poor compliance with the pinger requirements, the measures provided gillnet fishermen with another opportunity to operate in compliance with the pinger requirements. Since pingers are known to be highly effective at reducing harbor porpoise bycatch, the TRT decided that a rate of observed bycatch would serve as an indicator of pinger compliance.

Although you have expressed a desire to have us convene the TRT immediately, convening the TRT before the data are collected and analyzed would not be productive. During the upcoming months, we will be assessing not only the harbor porpoise bycatch within the areas associated with the consequence closure strategy but also the areas throughout the species' entire range. In addition, we are also analyzing the 2011 harbor porpoise survey data to generate a new harbor porpoise abundance estimate. The harbor porpoise bycatch and abundance estimates are critical components of the Harbor Porpoise Take Reduction Plan (TRP) process and essential to evaluate the effectiveness of the TRP toward achieving its requirements under the Marine Mammal Protection Act (MMPA). Consequently, we are not planning to reconvene the TRT until the harbor porpoise bycatch and abundance estimates are complete and available for the TRT's deliberations. We expect the harbor porpoise bycatch and abundance estimates to be completed and available to the TRT by this fall.


In addition, I would like to remind you that should the TRT through its consensus process recommend that we take action to remove or replace the consequence closure strategy, we must fully evaluate the biological and socio-economic effects of the requested action on the resource and the human environment. Therefore, any such action would be required to follow the Federal rulemaking process including, but not limited to, the procedures set forth in the Administrative Procedures Act (APA), National Environmental Policy Act (NEPA), and the MMPA.



I appreciate your concern for the fishermen affected by the implementation of the Coastal Gulf of Maine Consequence Closure. We will continue to monitor the status of harbor porpoise bycatch and abundance and will reconvene the TRT when the data becomes available this fall. However, if we learn that the analyses will be completed and available to the TRT sooner, we will adjust our plan to meet with the TRT accordingly. To that end, we look forward to continuing to work with you and other members of the TRT in achieving the goals and objectives of the MMPA and TRP.

Sincerely,



 Daniel S. Morris
Acting Regional Administrator

cc: David Gouveia