



MARINE MAMMAL COMMISSION

27 June 2012

Eric Schwaab
Assistant Administrator for Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Springs, MD 20910

Dear Mr. Schwaab:

In April the Northeast Regional Office of the National Marine Fisheries Service circulated the attached bulletin advising New England gillnet fishermen that, for the second year in a row, bycatch of harbor porpoise in the Gulf of Maine had exceeded target levels set in regulations adopted in February 2010 (75 Fed. Reg. 7383) to implement the Harbor Porpoise Take Reduction Plan. The bycatch rate in that area (0.078 porpoises per metric ton of landings) was more than twice the target set in the regulations (i.e., 0.031 porpoises per metric ton of landings). The excessive take has been attributed to the fishermen's poor compliance with pinger requirements. Consistent with consensus recommendations of the Harbor Porpoise Take Reduction Team (December 2007 meeting), the "Gulf of Maine Consequence Closure Area" is to be completely closed in October and November if the target bycatch rate is exceeded for two years in this area. Accordingly, the Bulletin announced that this area would be closed to gillnet fishing effective 1 October to reduce harbor porpoise bycatch levels below their potential biological removal level.

As a member of the Harbor Porpoise Team, the Marine Mammal Commission was among the Team members expressing support for the new rules. The Commission commends the Service for its efforts to monitor harbor porpoise bycatch and to promptly advise fishermen of this unfortunate but necessary development. A few days after issuing the bulletin, the Service convened a conference call with the Take Reduction Team to advise its members of the finding and closure announcement. As we understand it, the Service is scheduling a meeting this fall to consider other possible actions. The Commission looks forward to participating in this important meeting.

The consistent pattern of non-compliance both before and since the February 2010 regulations raises questions about the adequacy of enforcement efforts for the Harbor Porpoise Take Reduction Plan. The Commission would therefore be grateful if you would provide information describing—

- what efforts have been made since February 2010 to enforce the current rules for reducing harbor porpoise bycatch;
- the number of gillnets inspected in the various gillnet fishing regions to ensure they had both the proper number of pingers and that deployed pingers were functioning properly;
- how many pinger testers are being used for enforcement purposes and whether the Service believes that number is adequate; and

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- the number of warnings and citations that have been issued for violations by fishing region since the new rules went into effect.

The Commission also would appreciate being advised of any steps that have been taken to ensure that gillnet fishermen are aware of the new closure since issuing the April Bulletin, and any plans that are being made to ensure that both pinger requirements and the October-November closure will be enforced adequately. Finally the Commission requests that the Service advise it of any new plans or developments related to actions to reduce the bycatch of harbor porpoise as soon possible.

The Commission emphasizes the importance of achieving the goals of the Harbor Porpoise Take Reduction Plan and looks forward to helping in any way it can. Please contact me if you or your staff has questions regarding these comments and requests.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is written in a cursive style with a long horizontal line extending from the start of the name.

Timothy J. Ragen, Ph.D.
Executive Director