



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
One Blackburn Drive  
Gloucester, MA 01930-2298

Mr. David Cottingham  
Executive Director  
Marine Mammal Commission  
4340 East-West Highway, Room 905  
Bethesda, Maryland 20814-4447

Dear Mr. Cottingham:

This letter responds to your May 23, 2005 letter regarding compliance with regulations intended to reduce the bycatch of harbor porpoises. As noted in your letter, the regulations implementing the Harbor Porpoise Take Reduction Plan (HPTRP) have significantly decreased harbor porpoise bycatch since the HPTRP's implementation in 1999. Although the HPTRP has succeeded in reducing serious injury and mortality to well below potential biological removal (PBR) levels, we acknowledge that it has not yet achieved the zero mortality rate goal (ZMRG). Since the fishery observer information was presented to the Atlantic Scientific Review Group (ASRG) at its December 2004 meeting, NOAA's National Marine Fisheries Service (NMFS) has taken a number of steps to address this issue. As a preliminary matter, however, since the inception of the HPTRP in 1999, NMFS has made efforts to reach out to gillnet fishermen to ensure compliance.

In response to the non-compliance issue, on February 16, 2005 the NMFS Northeast Regional Office (NERO) sent out a small entity compliance guide to all gillnet fishermen from Maine through North Carolina. In this letter, NMFS reminded fishermen of the gear requirements implemented under the HPTRP for the Gulf of Maine and Mid-Atlantic waters. Enclosed with the letter was an information sheet titled "Harbor Porpoise Take Reduction Plan (HPTRP) Gillnet Fishing Restrictions," which described the New England and Mid-Atlantic closure areas, and included New England pinger requirements and Mid-Atlantic gear modification requirements. The information sheet also included updated graphics of both the New England and Mid-Atlantic closure areas overlaid on NOAA nautical charts. In addition, NMFS posted the small entity compliance letter and associated information sheet on the HPTRP web site ([www.nero.noaa.gov/porptrp](http://www.nero.noaa.gov/porptrp)). The web site also provides links to graphic outreach supplements where individual closure areas are overlaid on NOAA nautical charts to show finer scale detail than what was provided on the information sheet graphics.

In response to the small entity compliance letter, NMFS received numerous phone calls from affected fishermen asking specific questions about the HPTRP, requesting more information about the HPTRP, and inquiring about pinger certification training. Between 2004 and 2005, our NMFS gear liaison conducted 30 one-on-one trainings dockside or



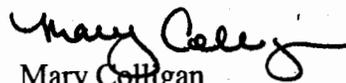
aboard vessels from Maine to Long Island, NY to certify gillnet fishermen in the use of pingers and provide them with information about the HPTRP. Of these, approximately 20 were a direct response to the small entity compliance letter.

My staff also initiated a cooperative enforcement effort between NOAA's Office of Law Enforcement, state enforcement, and the U.S. Coast Guard in both the Northeast and Mid-Atlantic regions. In addition, my staff worked through our Joint Enforcement Agreements (JEAs) to remind states of the HPTRP requirements and request more at sea enforcement. The states of Maine and Massachusetts in particular have expressed an interest in becoming more involved in enforcement efforts. Members of my staff have also given presentations about the Atlantic Large Whale Take Reduction Plan (ALWTRP) and HPTRP regulations at a meeting of the Atlantic States Marine Fisheries Commission (ASMFC) Enforcement Committee, which took place in Alexandria, Virginia on May 10, 2005. This meeting was attended by key state enforcement representatives as well as members of the U.S. Coast Guard and NOAA's Office of Law Enforcement. At this meeting, the issue of HPTRP non-compliance was noted as a key area of concern. My staff will continue to work with state and U.S. Coast Guard enforcement, as well as NOAA's Office of Law Enforcement, on the development of compliance-related enforcement endeavors.

Finally, in addition to outreach and enforcement, NMFS is examining the functionality of pingers at sea. The Northeast Fisheries Science Center's Fisheries Sampling Branch have used pinger testers to assess pinger compliance during times and in areas where pingers are required. Since it is impossible to test every pinger on a string of gillnets without interrupting normal fishing operations, observers test the functionality of as many pingers as possible that are located near an observed harbor porpoise take.

As always, thank you for your interest in matters related to protected resources.

Sincerely,



Mary Colligan  
Assistant Regional Administrator  
for Protected Resources

CC: F/NER3 – Gouveia, LaMontagne  
F/NEC – Merrick  
F/PR2 – Payne