

**Supplement  
to the  
Key Outcomes Memorandum  
from the December 2007 HPTRT Meeting**

This supplement is a companion document to the Key Outcomes Memorandum, which provides a synthesized summary of the conservation measures discussed during the Harbor Porpoise Take Reduction Team (HPTRT) meeting held in Philadelphia from December 17-19, 2007. The options provided in this document are separated into discussion topics by geographic area, which include the Mid-Atlantic region (including the areas of the Waters off New Jersey, Mudhole, and Southern Mid-Atlantic Waters), the area south of Cape Cod (including the Cape Cod South Closure Area), and the Gulf of Maine (including the Northeast, Mid-Coast, Massachusetts Bay, Offshore, and Cashes Ledge Closure Areas).

Each of the three geographic areas discussed below includes areas of agreement (consensus reached), areas of discussion (discussed at meeting, but not yet consensus), and NMFS topics for clarification (topics flagged for further discussion). All discussions will take place during the HPTRT conference call scheduled for January 31, 2008.

Other topics included at the end of this document were discussed briefly during the HPTRT meeting. NMFS and CONCUR would like to briefly review these topics, provide updates if necessary, and seek consensus.

**Mid-Atlantic and Southern Mid-Atlantic**

Within this section, the new Mid-Atlantic closure area south and east of the Mudhole Closure Area will be referred to as the “Mudhole South Closure Area” and is depicted in *Figure 1*. As such, the current Mudhole Closure Area will be renamed “Mudhole North Closure Area.”

**Areas of Agreement** (consensus reached)

1. Create a new closure area to the south and east of the Mudhole Closure Area (*Figure 1*).
  - a. Closed to large and small mesh gillnets from February 1 through March 15.
2. Increase tie-down spacing from not more than 15 feet to not more than 24 feet for large mesh gillnets.
3. Develop an enforcement and education effort, stressing the need to decrease soak time.
4. Undertake an annual review of the HPTRP to assess ongoing effectiveness.
5. Conduct annual workshops with fishermen to disseminate recent compliance and take data and provide information on effective gear and fishing practices.
6. Enter into cooperative agreements with the relevant state fishery management agencies to establish a mechanism to annually certify fishermen to improve compliance.
7. Facilitate timely testing of emerging gear technologies and designs by modifying HPTRP regulations to allow experiments to be conducted (after obtaining required authorization/permits).

Areas of Discussion (discussed at meeting, but not yet consensus)

1. Mudhole Areas and Waters off New Jersey
  - a. Analyzing the effects of 2 versus 4 anchors on harbor porpoise bycatch
2. Southern Mid-Atlantic Waters (see “NMFS Topics for Clarification” section below)
  - a. Proposal to exempt striped bass fishermen (large mesh gillnets) from the February 15-March 15 gillnet closure in the state waters portion of the Southern Mid-Atlantic Waters (Rationale: only striped bass season for southern states).

NMFS Topics for Clarification (topics flagged for further discussion)

1. Mudhole Areas and Waters off New Jersey
  - a. NMFS would like to clarify that when the “Mudhole South Closure Area” is not completely closed to gillnets, the current Mudhole Closure Area (to be renamed Mudhole North Closure Area) gear modification requirements would be in effect in this area from January 1-31, March 16-March 31, and April 21-30, with a large mesh gillnet closure from April 1-20.
  - b. Annual Review to assess effectiveness
    - i. What would the annual review include?
    - ii. For how long would these reviews take place? Three years? Longer?
  - c. Annual Workshops
    - i. For how long would these workshops take place? Three years? Longer?
    - ii. Would they take place throughout the Mid-Atlantic or just in areas of higher than desired bycatch?
    - iii. NMFS’ involvement in convening these workshops is dependent on appropriate funding.
  - d. Cooperative agreements with states and annual certifications
    - i. What would the certification be in? Attendance at the meeting? Compliant gear?
    - ii. The expectation is that any annual certification process be developed jointly by NMFS and the states, but implemented solely by the states.
2. Southern Mid-Atlantic Waters proposal
  - a. Is this within the entire area of the Southern Mid-Atlantic Waters or a portion (for example, in Virginia state waters only)?
  - b. If this proposal is accepted by the Team, the HPTRP gear modification requirements for the Southern Mid-Atlantic Waters would still be in place for this fishery from February 1- April 30, including February 15 – March 15. In addition, the Bottlenose Dolphin Take Reduction Plan regulations would still apply when/where applicable.

**Area South of Cape Cod**

Within this section, the new closure area encompassing the Cape Cod South Closure Area and its surrounding waters will be referred to as the “Southern New England Closure Area” and is depicted in *Figures 2 and 3*. *Figure 2* depicts this area pre-trigger (prior to the consequence areas trigger) and *Figure 3* depicts this area post-trigger (if the consequence areas have been triggered).

Areas of Agreement (consensus reached)

1. Create a new, larger pinger area south of MA/RI that would encompass the current Cape Cod South Closure Area and surrounding areas. Agreed upon boundaries include:
  - a. Western boundary: 72° 30' W longitude and curving around LI Sound to the CT/RI border
  - b. Southern boundary: 40° 00' N latitude
  - c. Eastern boundary: 69° 30' W longitude
  - d. Northern boundary: 42° 00' N latitude (see Gulf of Maine section) and along the MA/RI coastline
2. Require pingers in this area from December through May with the March gillnet closure in the current Cape Cod South Closure Area remaining (*Figure 2*).
3. Consequence Areas (see "NMFS Topics for Clarification" section below)
  - a. NMFS would take action after 3 years
  - b. Establish "Consequence Areas" if takes are above the 0.03 bycatch rate trigger (see "NMFS Topics for Clarification" section below)
  - c. The Team agreed upon the area consisting of the original Cape Cod South Closure Area and its southern expansion (*Figure 3*)
  - d. The consequence areas will be closed February through April
4. Undertake an annual review of the HPTRP to assess ongoing effectiveness.
5. Conduct annual workshops with fishermen to disseminate recent compliance and take data and provide information on effective gear and fishing practices.
6. Enter into cooperative agreements with the relevant state fishery management agencies to establish a mechanism to annually certify fishermen to improve pinger-related compliance.
7. Facilitate timely testing of emerging pinger technologies and designs modifying HPTRP regulations to allow experiments to be conducted (after obtaining required authorization/permits).

Areas of Discussion (discussed at meeting, but not yet consensus)

1. The Team asked for targeted observer coverage in the Southern New England Closure Area.

NMFS Topics for Clarification (topics flagged for further discussion)

1. Clarification: are we only using the bycatch rate as the trigger for the consequence areas?  
The Team discussed two potential triggers:
  - a. Bycatch rate exceeds 0.03 (is this appropriate as the only trigger?)
  - b. Compliance with pinger requirement below 90%
2. Data collection (bycatch and pinger compliance) and monitoring
  - a. Monitoring period: Data on harbor porpoise bycatch would be collected for a specific period of time. After this time, if the bycatch rate trigger of 0.03 is exceeded, action will be taken. Clarification is needed regarding this time frame.
    - i. Collect data for a three year period and take action, if needed, at the beginning of year four, OR
    - ii. Collect data for a two year period and take action, if needed, at the beginning of year three.
  - b. How will the harbor porpoise bycatch data be analyzed? The Team called for yearly monitoring.

- iii. Use data each year individually?
  - iv. Take the average over the course of the two or three years?
  - v. What is the consequence if takes are above the 0.03 bycatch rate trigger after Year 1?
3. Consequence areas if takes are above 0.03 bycatch rate trigger
    - a. Is there less incentive to comply with the pinger requirements in the Southern New England Closure Area if it is known that the consequence areas would be smaller and closed for three months only?
    - b. Should the smaller consequence areas be closed December through May (not consensus)?
    - c. If the bycatch rate trigger is exceeded and the consequence areas (Cape Cod South Closure and southern expansion area) become closed, NMFS has the understanding that pingers would still be required outside of these two areas within the larger Southern New England Closure Area from December through May and within the consequence areas from December through January and in May (*Figure 3*).
  4. Annual Review to assess effectiveness
    - a. What would the annual review include?
    - b. For how long would these reviews take place? Three years? Longer?
  5. Annual Workshops
    - a. For how long would these workshops take place? Three years? Longer?
    - b. Would they take place throughout New England or just in areas of higher than desired bycatch?
    - c. NMFS' involvement in convening these workshops is dependent on appropriate funding.
  6. Cooperative agreements with states and annual certifications
    - a. What would the certification be in? Attendance at the meeting? Compliant gear? Working pingers?
    - b. The expectation is that any annual certification process be developed jointly by NMFS and the states, but implemented solely by the states.
  7. Discuss conditions under which these areas would be reopened (e.g., bycatch rate and/or compliance triggers).

### **Gulf of Maine**

For the Gulf of Maine, a suite of measures was proposed in which consensus was reached without including a proposed modification to the Mid-Coast Closure Area. Below, the term "X Box" refers to the area east of the Massachusetts Bay Closure Area and west of the Western Gulf of Maine Closure Area (under the groundfish regulations).

#### **Areas of Agreement** (consensus reached)

1. X Box (*Figure 2*)
  - a. December and January – pingers required
  - b. February – closed to gillnetting
2. Massachusetts Bay Closure Area
  - a. Extend pinger requirement to November (currently pingers are required from December - February and April – May)

3. Codify the groundfish Western Gulf of Maine year-round closure area under the HPTRP (see “NMFS Topics for Clarification” section below)
4. Eliminate the Offshore Closure Area but keep the Cashes Ledge Closure Area the same including the current gear restrictions from the Offshore Closure Area. The measures for Cashes Ledge include:
  - a. Pinger usage: November – January and March – May
  - b. Closed to gillnets: February
5. Fold the area/takes east of Cape Cod under the Southern New England Closure Area
  - a. This was done by making the northern boundary of this area 42° 00’N latitude (*Figures 2 and 3*)
6. Undertake an annual review of the HPTRP to assess ongoing effectiveness.
7. Conduct annual workshops with fishermen to disseminate recent compliance and take data and provide information on effective gear and fishing practices.
8. Enter into cooperative agreements with the relevant state fishery management agencies to establish a mechanism to annually certify fishermen to improve pinger-related compliance.
9. Facilitate timely testing of emerging pinger technologies and designs by modifying HPTRP regulations to allow experiments to be conducted (after obtaining required authorization/permits).

Areas of Discussion (discussed at meeting, but not yet consensus)

1. Mid-Coast Closure Area Options
  - a. Close the Mid-Coast Closure Area to gillnetting during the month of October
  - b. Require the use of pingers in the Mid-Coast Closure Area year-round (i.e. this would add required pinger usage from June 1 – September 14)
  - c. No additional regulatory action; rather, conduct enforcement efforts and outreach to increase compliance
    - i. Increase enforcement efforts in the Mid-Coast Closure Area
    - ii. Outreach coordination by the state agencies (ME, NH, MA)
  - d. Add additional months requiring pinger use and enact closure to gillnets
    - i. Gillnet closure during October
      1. Set a trigger and evaluate after a period of time (specifics of timing not discussed during the meeting). Potential triggers:
        - a. If takes decline below a 0.041 bycatch rate, open October closure to gillnets
          - i. NMFS assumes opening only with pinger use required
        - b. If takes exceed a 0.041 bycatch rate, extend October closure through November
      - ii. Note that November has a higher bycatch rate than October (see “NMFS Topics for Clarification” section below)

NMFS Topics for Clarification (topics flagged for further discussion)

1. Mid-Coast Closure Area
  - a. Bycatch rates in July and August are very low, 0.010 and 0.006, respectively (see “Effects of Pingers on Harbor Porpoise and Seal Bycatch” binder document 3.c), Table 2B., page 6).

- i. Would there be additional benefit to harbor porpoises by requiring pingers year-round?
    - b. November has a higher average bycatch rate of 0.121 as compared to October's bycatch rate of 0.066 (see "Effects of Pingers on Harbor Porpoise and Seal Bycatch" binder document 3.c), Table 2B., page 6).
  2. The HPTRT recommended that the groundfish Western Gulf of Maine (WGOM) year-round closure be codified under the HPTRP.
    - a. Do we need to do this? What is the benefit since it is already closed to all groundfishing?
    - b. Groundfish closures are permanent and if changed under the groundfish FMP, we would receive ample time to address impacts to the HPTRP.
    - c. Would increase time needed to analyze and ultimately approve rule.
    - d. If HPTRT agrees to codifying the WGOM year-round closure under the HPTRP, would the same logic apply to the other overlapping groundfish year-round closures (Nantucket Lightship and Cashes Ledge Closure Areas)? See *Figure 2* for locations of these areas.
  3. Outreach and enforcement strategy to increase compliance
    - a. What is the time period for this strategy to take place?
    - b. Will a trigger for further action be set (for example, if a certain bycatch rate is being exceeded)? After how long will an evaluation be made to determine if the trigger is met?
  4. Annual Review to assess effectiveness
    - a. What would the annual review include?
    - b. For how long would these reviews take place? Three years? Longer?
  5. Annual Workshops
    - a. For how long would these workshops take place? Three years? Longer?
    - b. Would they take place throughout New England or just in areas of higher than desired bycatch?
    - c. NMFS' involvement in convening these workshops is dependent on appropriate funding.
  6. Cooperative agreements with states and annual certifications
    - a. What would the certification be in? Attendance at the meeting? Compliant gear? Working pingers?
    - b. The expectation is that any annual certification process be developed jointly by NMFS and the states, but implemented solely by the states.

### **Other Topics for Discussion**

#### 1. Regulatory Corrections and Clean Up

The Team requested that NMFS update the list of regulatory corrections/clarifications (Items 6 through 17 in the Discussion Paper) that still apply based on the above options. Below are the Items that still apply, referencing the Item number from the Discussion Paper in parentheses. Please see the Discussion Paper for a full description.

- a. Specify that pingers should be set every 300 feet (current language does not specify distance between pingers) (Item 6)

- b. Specify latitude and longitude coordinates where HPTRP management area boundaries intersect with the shoreline (Item 7).
  - c. Add the exemption for gillnets equipped with pingers (as is stated in the final rule implementing the HPTRP) to Mid-Coast Closure Area (Item 8)
  - d. Rename point CL5 of the Cashes Ledge Closure Area to CL1 to indicate that the area is geographically enclosed (Item 10)
  - e. Correct instances where the term “Waters off New Jersey” is referred to as “New Jersey Waters” (Item 11)
  - f. Specify a maximum number of nets per string allowed as part of the gear modifications in the Mid-Atlantic (Item 12)
  - g. Modify Mid-Atlantic inshore exempted waters from Chincoteague, VA to Ship Shoal Inlet to be landward of the 72 COLREGS demarcation lines (Item 13)
  - h. Clarify the definition of the northeast boundary of the Waters off New Jersey to be where the longitude line 72°30’W intersects with the southern shoreline of Long Island, NY (Item 14)
  - i. Clarify the definition of the northwest boundary of the Mudhole to be consistent with the graphic in the final rule implementing the HPTRP (63 FR 66469, Dec. 2, 1999) (Item 15)
  - j. Replace the incorrect term, “waters off New Jersey”, in the regulations describing gear modifications in the Southern Mid-Atlantic waters (Item 16)
  - k. Replace the shoreline points in the definition of Southern Mid-Atlantic waters with true latitude and longitude coordinates and also correct the southern shoreline boundary of the area by using a more accurate point to describe the North Carolina/South Carolina border (Item 17)
2. Priorities for gear research
- a. We heard at the meeting that the focus of research should be on safer, more effective pingers (for example, pingers that are easier to haul due to their shape and/or material, as well as higher frequency pingers that deter harbor porpoises while avoiding attraction of seals).
  - b. Are there other priorities?

**Figure 1: Mid-Atlantic Harbor Porpoise Management Areas for Gillnets**

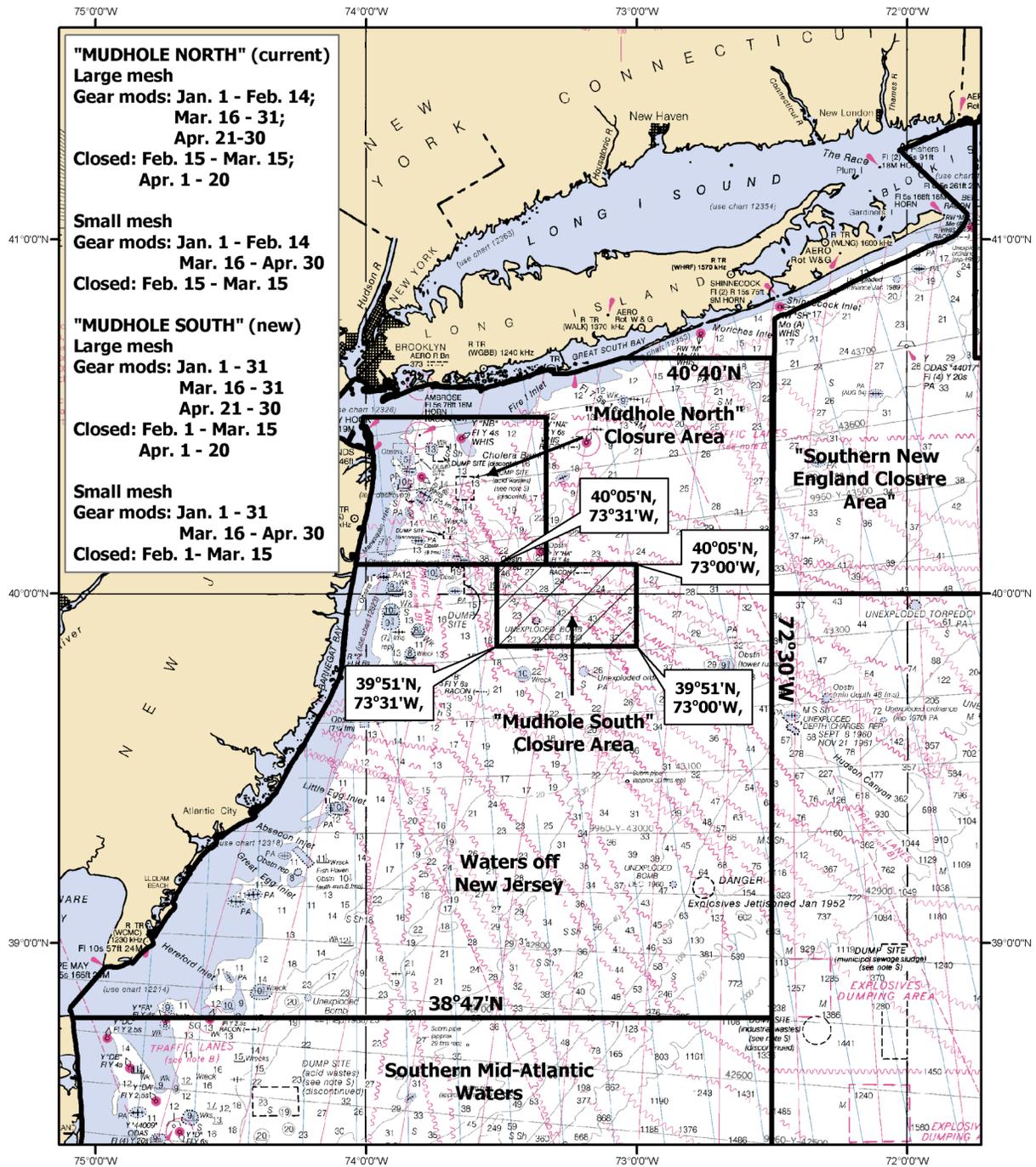
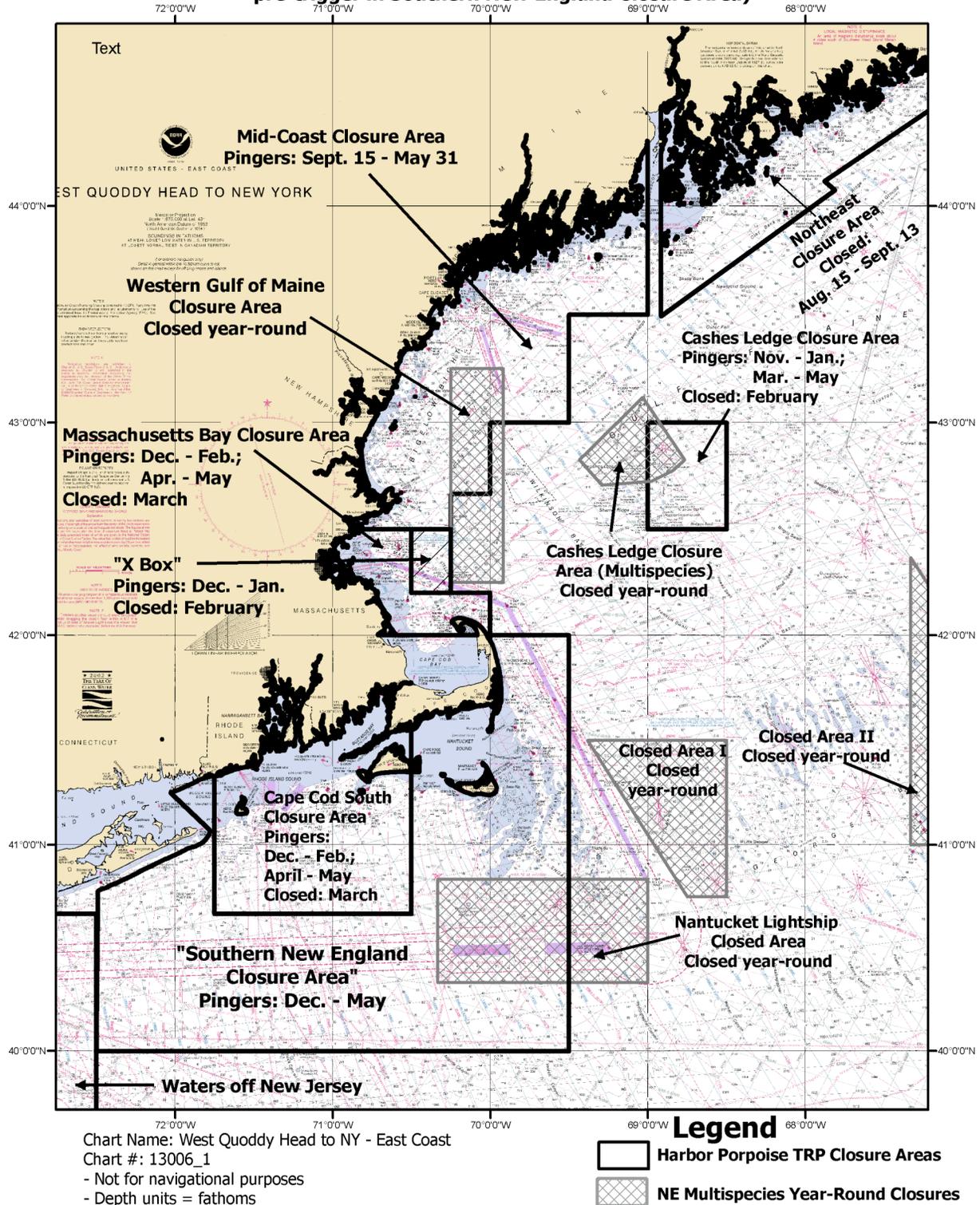


Chart Name: Cape Sable to Cape Hatteras  
 Chart #: 13003\_1  
 - Not for navigational purposes  
 - Depth units = fathoms

- Note that the southern boundary of the Southern Mid-Atlantic Waters Closure Area is the NC/SC border (33°51'N)

**Figure 2: Gulf of Maine Harbor Porpoise Management Areas for Gillnets (consensus options depicted with associated management measures pre-trigger in Southern New England Closure Area)**



**Figure 3: Gulf of Maine Harbor Porpoise Management Areas for Gillnets (consensus options depicted with associated management measures post-trigger in Southern New England Closure Area)**

