

**NMFS Perspective
on Moving Forward
December 20, 2012**

As a follow-up to the Harbor Porpoise Take Reduction Team (TRT) November 2012 meeting we wanted to provide you with NMFS perspective of what we heard at the meeting and our thoughts on how to potentially move forward. We wanted to share this with you so that you could keep this in mind while developing your proposal. Based on what we heard at the meeting and given the new harbor porpoise bycatch and abundance estimates, we think the key issue is the need to address the trigger for the Consequence Closure Strategy.

1) Most Recent Stock Assessment Report (SAR) Information

- Increased confidence in the most recent abundance estimate that is in the revised draft 2012 SAR
 - Maximum abundance estimate decreased by about 9,000 animals from the final 2011 SAR
 - Minimum abundance estimate increased by about 450 animals from the final 2011 SAR
- PBR is stable to increasing
- Bycatch is decreasing to levels below PBR
 - Annual bycatch estimates in 2010 and 2011 (preliminary) are below the current PBR
 - Preliminary 5-year average of estimated mortality for 2007-2011 (Draft) is below PBR

2) Take Home Messages

- The Consequence Closure Strategy was intended to serve as an immediate backstop measure should harbor porpoise bycatch exceed an established threshold that would indicate harbor porpoise takes were likely increasing above the stock's PBR level. Once triggered, the closure(s) would be implemented as an immediate protective measure while the TRT met to review the most recent harbor porpoise bycatch and abundance information and to develop improved conservation measures to achieve the goals and objectives of the TRP as established through the MMPA.
- A consequence closure was triggered in 2012 even though the estimated serious injury/mortality (SI/M) levels are below PBR. The triggers, however, were calculated as target bycatch rates (number of observed takes per metric tons of landings) and were not directly linked to PBR.
- The triggers were based on observed take and landings data from January 1999 - May 2007 data and the sink gillnet fishery has undergone significant changes since that time. These changes could have resulted in the calculated bycatch rate no longer serving as a reasonable predictor of bycatch relative to PBR.

- In 2011, the Northeast Fisheries Science Center conducted an abundance survey that resulted in a more accurate harbor porpoise abundance estimate.
- Although progress has been made toward consistently achieving bycatch levels that are below PBR, poor compliance jeopardizes the attainment of that goal.

3) Potential Option for Moving Forward

Our original evaluation of the TRP indicated more severe conservation measures would be needed to achieve the TRP's goals; however, based on the most recent SAR information and take home messages from the November TRT meeting it appears that the TRP is making progress toward achieving both its short term and long term goals (reducing harbor porpoise serious injuries and mortalities to levels below PBR and approaching the Zero Mortality Rate Goal). Given that the majority of the TRP appears to be working as intended, we suggest focusing on the one measure that is not functioning as intended - the trigger. The following outlines a possible option for moving forward.

- Changes to TRP:
 1. Modify the Consequence Closure Area Strategy.
 - a) Modify the triggers for the consequence closure strategy.
 - Eliminate the current triggers that utilize the target bycatch rate.
 - Establish a new trigger that links the harbor porpoise SI/M 5-year average (for the U.S. portion of the stock) to the stock's PBR level. The most recent final SAR will serve as the most recent data.
 - b) Modify the trigger rules.
 - If the estimated harbor porpoise SI/M 5-year average is below the PBR level, then Consequence Closure Areas will not be implemented and NMFS will continue to monitor harbor porpoise bycatch levels.
 - If the estimated harbor porpoise SI/M 5-year average is above the PBR level, then all three Consequence Closure Areas (Coastal Gulf of Maine, Eastern Cape Cod, and Cape Cod South Expansion) will be implemented simultaneously during the same areas and times currently specified in the TRP.
 - c) If the Consequence Closure Areas are implemented
 - All three Consequence Closure Areas would remain in effect during the same areas and times currently specified in the TRP until:
 - the SI/M 5-year average for the U.S. portion of the harbor porpoise stock has been lowered to levels below PBR for 3 consecutive years, using the most recent final SARs to serve as the most recent data; or

- NMFS, in consultation with the TRT, amends the TRP.
2. Remove the “Other Special Measures” provision from the TRP.
 - a) Requests for modifications or exemptions to the TRP would have to be vetted through the TRT using the “Process for Considering Exemptions under the HPTRP.”
 - b) If warranted, NMFS would act on these requests from the TRT through the Federal rulemaking process.