Proposal for Shore-Based Pinger Inspection in New England Waters

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The following is a proposal to reduce harbor porpoise bycatch in New England waters north of 40° N Latitude. Its goal is to ensure that all gillnet fishermen use pingers for set periods of the year in all areas by ensuring in so far as possible that they have the correct number of pingers with fresh batteries for all their nets at the start of each fishing season. The underlying concept is to achieve this goal through a shore-based inspection program. Details as to how this system would operate as are discussed below, however, they are subject to change based on discussion and agreement by the TRT. Given possible changes this proposal is offered more as a conceptual approach than a plan whose provisions are set in stone.

The premise of this proposal is based on the following assumptions: (1) pingers work; (2) if all New England fishermen use functioning pingers at times of the year when harbor porpoise are most likely to be caught, bycatch will be reduced to levels approaching ZMRG (at least relative to past bycatch levels in New England); (3) the major impediment to pinger use is the cost of buying pingers and batteries, but if that hurdle can be overcome, fishermen will use them; (4) as long as there are some areas where fishermen can fish without pingers, there will be an incentive for some fishermen to forgo the expense of purchasing and maintaining pingers, and will fish at least occasionally in areas where pingers are required on the expectation they will not be caught; (5) resources for at-sea enforcement alone will never be adequate to assure a high level of compliance in pinger required areas; (6) fishing sector managers are willing to play a major role in ensuring fishermen have pingers and fresh batteries; and (7) if this system is still not adequate to assure high levels of pinger compliance and realize substantial progress towards ZMRG bycatch reduction goal, requirements for pingers should be abandoned in lieu of expanded seasonal closures.

The elements of the proposal are as follows:

1. Require all gillnet fishermen to use pingers on all nets, at all times and in all areas (1) in the months of December through May between 40 and 42 degrees latitude during; and (2) in the months of October through March north or 42 degrees latitude.

2. Sector managers commit to requiring all gillnet fishermen in their sector to have enough pingers for all their nets (1 per net and one extra per string) plus 5-10 percent extra at the start of each fishing year. They also commit to requiring that all fishermen turn in their pingers at the end of each pinger fishing season and to replace all batteries whether functioning or not with new fresh batteries. Pingers and spare batteries as needed for the coming fishing year will then be redistributed to fishermen one to two months before the start

of next pinger fishing season with a letter affirming that all pingers in a fishermen's possession have new batteries. Those letters must be presented to enforcement officers under 3 below and to any enforcement officer during an at-sea boarding. (Given battery life guaranteed by the manufactures -- i.e., three months of continuous use for LED pingers -- a single new battery at the start of the season should last for most if not all of a full pinger fishing season for some fishermen, but others may need to replace batteries once during the pinger fishing season)

3. All gillnet fishermen must present all their pingers for shore-side inspection by a state enforcement officer during the month before the start of each pinger fishing season. Inspecting officers would inspect pingers under authority of joint enforcement agreements (JEAs) with NMFS. NMFS would commit to providing funds for shore inspections through JEAs. Shore-based enforcement officers would provide fishermen a certificate of inspection after finding that: (1) the fishermen has a letter from their sector manager stating all the fishermen's batteries were replaced less than two months before inspection; (2) all pingers are functioning properly; (3) the fishermen has enough pingers to equip all his licensed nets, plus 5-10% extra and extra batteries to be carried onboard to replace any pingers that are lost or fail over the course of a pinger fishing season.

4. Annual inspections by enforcement officers will be required as long as observers find compliance with pinger requirements (including both number and functionality) are below some set level (e.g., 90-95 percent?). If observers find a few missing or non-functioning pingers and fishermen can immediately replace them from their stock of extra pingers or batteries onboard, they would not be considered out of compliance.

5. If steps 1 through 4 are agreed to, annual consequence closure now scheduled for October-November 2012 would be canceled in lieu of an ongoing February-March closure. The February-March consequence closure would remain in place through January 2015 when it would be reconsidered under point 7 below.

6. NMFS will develop a gillnet-specific VTR under the Harbor Porpoise TRP to gather data on a haul-by-haul basis. Data for each haul would include: date of haul, haul location, vessel name and number, length and number of net panels hauled, soak time, estimated catch of all species comprising more than 20 percent of the catch, and number of harbor porpoise caught. Those forms would satisfy requirements for filling out current VTR forms and would be used to calculate harbor porpoise bycatch based on the number of porpoise caught per hour of net soak time.

7. The TRT will reconsider consequences closures after two fishing years (i.e., January 2015). At that time, the TRT would reconvene to consider whether to (1) terminate the February-March consequence closures (i.e., if bycatch levels remain substantially below PBR in 2013 and 2014, bycatch appears to be approaching ZMRG, and compliance rates measured by observers are high), (2) keep or modify the February-March consequence closure (i.e., if there is not much change in bycatch levels and compliance rates are deemed marginal), or (3) implement broad-based time-area closures to replace the February-March Consequence Closure with closures recommended by conservationists on TRT in their proposal (i.e., if the

two-year average of harbor porpoise bycatch in 2013 and 2014 exceeds PBR and compliance rates measured by the observer program remain below 90-95%.