



STATE OF DELAWARE

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF CLIMATE, COASTAL AND ENERGY

STATE STREET COMMONS

100 W. WATER STREET, SUITE 7B

DOVER, DELAWARE 19904

**COASTAL
PROGRAMS**

PHONE
(302) 739-9283

Michael Pentony
Regional Administrator
NOAA NMFS Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

June 25, 2025

RE: Delaware Coastal Management Program — Federal Consistency Negative Determination Concurrence for the MMPA Harbor Porpoise Take Reduction Plan (FC 2025.0017)

Dear Michael Pentony,

The Delaware Department of Natural Resources and Environmental Control (DNREC) Coastal Management Program (DCMP) has completed its review of the above referenced project, originally dated and received by this office on February 11, 2025, and deemed administratively complete upon receipt of necessary information on May 7, 2025.

PROPOSED ACTION

The National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) proposes revisions to the regulations implementing the Harbor Porpoise Take Reduction Plan. The proposed rule would modify the research provisions in both the Harbor Porpoise Take Reduction Plan-New England and the Harbor Porpoise Take Reduction Plan-Mid-Atlantic to provide a new approval process on research into ways to reduce harbor porpoise bycatch and increase knowledge of biological information of the species. Specifically, the approval process would allow research to be conducted on or from a commercial fishing vessel during fishing operations. This rule would also add a definition of “Research Plan” to 50 CFR 229.2, specifying the components that must be included to apply to the research exception.

The proposed rule would also establish that any research under the plan must be identified as a research priority by the Harbor Porpoise Take Reduction Team, must be expected to minimize harbor porpoise bycatch and may also incidentally reduce bycatch of other protected species in gillnet fisheries. The research must also increase scientific knowledge and be conducted according to accepted scientific methods.

FEDERAL CONSISTENCY UNDER THE COASTAL ZONE MANAGEMENT ACT

Pursuant to the Coastal Zone Management Act (CZMA) of 1972 administered by the National Oceanic and Atmospheric Administration (NOAA), as amended, each federal agency activity within or outside the coastal zone that can have reasonably foreseeable effects on any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of NOAA-approved state management programs.

Under the CZMA implementing regulations, *Federal Consistency with Approved Coastal Management Programs* (15 CFR 930), subpart C, if a federal agency determines that there will not be coastal effects, then the federal agency shall provide the state agencies with a negative determination for a federal agency activity, which has been identified by a state on a list or through case-by-case monitoring, is the same or similar to other activities for which a negative determination has been issued in the past, or for which the federal agency undertook a thorough analysis of coastal effects.

PUBLIC PARTICIPATION

In accordance with 15 CFR 930.35(c), a public notification was not required for this negative determination.

CONCURRENCE

Based on its review and pursuant to 15 CFR 930, the DCMP concurs that the project as proposed would result in no coastal effects.

Pursuant to 15 CFR 930.46, NOAA-NMFS shall notify the DCMP of any proposed modifications to activities after receiving a decision from the DCMP. Modifications will be subject to supplemental federal consistency review if effects to any coastal use or resource will be substantially different than originally described.

Please be advised that this federal consistency review does not negate the need for other authorizations that may be required. Thank you for the opportunity to evaluate this federal agency activity. If you have any questions, please contact me or Stephanie Zmina of my staff at (302) 739-9283.

Sincerely,



Jesse Hayden (Jun 25, 2025 13:46 EDT)

Jesse Hayden, Administrator
Delaware Coastal Management Program

JH/sz

cc: File FC 2025.0017
Elizabeth Stratton, NOAA NMFS