

HIGHLY MIGRATORY SPECIES MANAGEMENT TEAM REPORT ON EXEMPTED FISHING PERMIT PROCESS

Exempted fishing permits (EFPs) are a mechanism to test new fishery gear or operational approaches which would otherwise be prohibited under existing rules and regulations. The Pacific Fishery Management Council (Council) reviews applications for EFPs on the US West Coast and provides recommendations to National Marine Fisheries Service (NMFS) on moving forward with documentation and clearance for approval.

Initial scoping of EFP considerations was conducted by the HMSMT during the first half of 2014 and included in the June 2014 Council Briefing Book ([Agenda Item E.3.b, HMSMT Report](#)). Public forum discussions with fishing industry (current longline and drift gillnet fishermen), the conservation community (The Nature Conservancy, Oceana, Wild Oceans, PEW), and researchers (NOAA, academia) contributed substantially to the process. Considerations were further refined through additional consultation with stakeholders during the June 2014 Council meeting, and are described below.

Balancing operational flexibility and EFP data requirements. EFPs have dual purposes, including collection of data to answer specific questions while providing as much flexibility as possible for fishers to operate under realistic conditions. To accomplish this, experimental controls and variables should be defined. The definitions of, and amount of, effort (e.g. vessels, gear types, seasons, etc.) will have bearing on the power of the data to answer the questions defined in the EFP. EFPs which include approaches to phasing in increasing effort levels (i.e. number of vessels, etc.) over time could allow them to begin as pilot-like projects with effort increasing through time if the initial data justify it. If feasible, side-by-side comparison of gear performance would also be desirable. For example, a single longline EFP might aim to follow a deep-set (DSL) with a shallow-set (DSL) to demonstrate differences in gear performance under similar conditions like season and location.

It will be equally important for fishers to have sufficient operational flexibility to test the gear using their experience, knowledge and ability to innovate. Fishing success will vary with changes in environmental conditions through time (e.g. El Nino/La Nina), so fishing outcomes might be better or worse than expected in the short-term, but revert to more ‘average’ outcomes over longer terms.

Time-area considerations. The spatial and temporal extent of fishing activity should be clearly defined in each EFP. Not all time-area considerations would apply to all EFPs in the same ways. For example, applications to test buoy gear (e.g. vertical longlines) within a portion of the Pacific Leatherback Conservation Area (PLCA) could be taken into consideration under current regulatory schemes and desired transition goals, but applications to test modifications to DGN gear would be unlikely to be considered within the PLCA. Conflict with existing gears and within critical habitat (e.g. Pacific Leatherback critical habitat) would not be permitted.

Distance buffers from land have previously been useful definitions for the limits of allowed fishing effort. Some examples of buffers to clarify spatial extent include, 1) 100 miles from land

constrains fishing outside known offshore banks in California, 2) a maximum of 75 miles from land during February 1 – August 14 currently limits DGN fishing, 3) longline fishing is currently not permitted within 50 miles of shore in Hawaiian waters, 4) no fishing within 30 miles of the coast was specified in Mr. Dupuy's 2006 SSSL EFP application. Potential conflicts of these spatial constraints with current Federal and State regulations would need to be taken into consideration as well.

Gear and/or operational configurations. Intended gear setup, deployment, monitoring and retrieval would also need to be defined within an EFP. Physical length and depth of gear deployment (e.g. for longlines: mainline length, hooks-per-float, basket depth range, bait-type) would impact the expected species catch composition, and soak times have important implications for survivorship of released bycatch. Time-of-day would also need to be defined as this relates to the distribution within the water column of both target and non-target species. For example, daytime DSSL experiments conducted by the Southwest Fisheries Science Center (SWFSC) used short soak times (6 hours) and 250-350 hooks to mitigate risks to bycatch and maximize survivorship of tagged and released fish. Actively monitored gears would likely draw increased interest (such as strike indicators with buoy gear), so information to clarify the intent for active vs. passive gear monitoring would help inform EFP applications. Gear types which have been previously disallowed would be unlikely to be reconsidered (e.g., EFPs that propose reverting to longline J-hooks and squid bait would not be considered).

Catch composition and species of concern. Definition of the time-area and gear configurations within an EFP should enable an estimation of expected catch composition. Information about the current abundance of 'target' species (e.g. swordfish) should be considered. Likewise, information regarding potential catch ratios of marketable catch (e.g. opah) vs. non-marketable catch (e.g. blue shark) should be taken into consideration. Implications for existing fisheries and fleets (e.g. albacore, thresher shark) should be examined. Takes of quota species (e.g. bigeye and bluefin tuna) would count towards established limits.

The possible impacts on Protected Species (e.g. leatherback turtles) and species of concern (e.g. striped marlin) should be taken into account as well. Take caps on protected species would apply to EFPs. Existing information about the survivorship of discarded catch (e.g. striped marlin) should be provided; otherwise collecting this information in the EFP would be desirable. The probability of encountering some species of concern (e.g. striped marlin) might change with oceanographic conditions (e.g. El Nino/La Nina, climate change) and these changes should be acknowledged, wherever possible.

Observed effort. It would be necessary to provide confidence in catch compositions (including 'target' species, 'marketable' species, and protected species) through independent observation. Achieving this might be accomplished through on-board observers, electronic monitoring (EM), or both. Given the proposed amount of effort (e.g. number of vessels and sets), the feasibility of achieving adequate observer coverage should be considered. Facilities to accommodate observers on EFP vessels would be required, and the existence of Vessel Monitoring System (VMS) or ability to install it on EFP vessels should be stated in applications.

The costs of on-board observers can be substantial, so fiscal conditions may not always allow for 100% on-board coverage. However, some gears might not require 100% coverage due to lower bycatch concerns (e.g. only 20% coverage in buoy fishery vs. 100% in longline fishery). If some

or all of the effort observation needed can be achieved with approved EM methods, this should be pointed out. EFPs proposing to test or develop new EM methods should be encouraged.

Recommendations of the HMSMT

The dual objectives of collecting useful data for answering specific research questions while also allowing significant operational flexibility to EFP applicants should be balanced when considering each EFP proposal. It would not meet an EFP's objectives to either collect inadequate data or to be overly prescriptive on applicants. If the Council decides to move forward with a request for EFP applications, the HMSMT makes the following recommendations.

- Existing permit holders (e.g. current DGN permit holders) should be given priority over outside fishers (e.g. Hawaiian operators) to ensure preservation of opportunity for local operators.
- Consideration of viable gear should include DSLL and SSLL, as well as buoy gear.
- Longline proposals should meet standards comparable to those applied to Hawaiian longline fishers (e.g. use circle hooks and mackerel baits).
- Longline mainline length and number of hooks in proposals should be comparable to current swordfish industry standards.
- Proposals which include longline gear should consider defining coastal distance buffers (30, 50 miles, etc.).
- Applications to use DGN gear that operate within existing constraints (e.g. time-area closures, gear configurations, etc.) and aim to reduce bycatch should also be considered.
- Applications proposing new gear innovations should be considered.
- The number of permitted EFP vessels should be a function of the ability to provide adequate observer coverage.
- Restrictions on fishing in sensitive habitat areas should be considered.
- EFPs should meet state and federal laws and regulations (including future take caps).
- Striped marlin retention should remain prohibited.
- Data collected under EFPs should be made publically available.

PFMC
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