

## NEW OR ROUTINE MANAGEMENT MEASURES FOR 2015-2016 FISHERIES

At its August 2014 meeting in La Jolla, California, the HMSMT discussed potential new or routine management measures for HMS fisheries for 2015-2016 adopted by the Council at its June 2014 meeting (see the [June Council Meeting Decision Summary Document](#)). The Council identified reducing recreational fishing mortality on Pacific bluefin tuna and establishing hard take caps for high priority protected species encountered in the California drift gillnet fishery as high priority items to be implemented in 2015. These topics are addressed in HMSMT Report 2 and Report 3. One of the other topics, full monitoring of the drift gillnet fishery (through observers and/or electronic monitoring), is closely linked to establishing hard caps and is considered in HMSMT Report 3. The other items are considered lower priority with respect to implementation in 2015. For each of these lower priority items a brief description, including a statement of purpose and need, considerations for a range of alternatives, and workload and timing issues, is presented below.

### **VMS Ping Rates in the DGN Fishery**

Action: Increase the transmission (ping) rate for vessel monitoring system (VMS) units on vessels in the DGN fishery.

Purpose and Need: In March 2014 NOAA Office of Law Enforcement (OLE) requested the Council increase the transmission rate for vessels equipped with VMS and managed under Council FMPs ([Agenda Item H.1.b, NMFS OLE Report, March 2014](#)). The increase in the ping rate is needed because of an adverse ruling in a recent case of a vessel operating in a Groundfish Closed Area. The judge determined “that the hourly VMS position report evidence in the case was insufficient to prove that the vessel was not operating in “continuous transit” through the closed area as required by regulation.” Since at least two position estimates would be needed to distinguish a transiting vessel from a vessel engaged in fishing in a closed area illegally, OLE is recommending increasing the ping rate to every 15 minutes for “gear types where setting/hauling is accomplished in under 55 minutes” and “The increased ping rate should apply to vessels that are restricted/prohibited from fishing in an area, and/or required to maintain continuous transit through said restricted area.” OLE did not specifically identify the DGN fishery as meeting these criteria; however, beginning in 2013 VMS has been required on DGN vessels and they are subject to closed area management.

Alternatives: No action would be to maintain the current once per hour ping rate requirement. The HMSMT discussed action alternatives ranging between the OLE requested ping rate to once every 15 minutes to intermediate values. An approach that would let the ping rate vary randomly from that average on an hour-by-hour basis was also discussed. The result would be a reduced transmission cost of an increased ping rate while also maintaining an incentive not to violate fishing regulations.

Workload and Timing: Although this is a relatively simple action it may be more efficient to consider the ping rate requirement for DGN along with all the other fisheries OLE identified for this action. Since the other fisheries target groundfish, prioritizing and scheduling of the action is part of Agenda Item J.1, Omnibus Regulation Changes. Rolling DGN into that process could be considered under that topic. Alternatively, the Council could adopt alternatives for analysis under Agenda Item G.4 based on the preliminary information provided in the OLE report from March 2014.

### **Shallow-set Longline Outside the West Coast EEZ**

Action: Achieve fishing opportunity comparable to the Hawaii shallow-set longline fishery for HMS permit holders using longline gear outside the Exclusive Economic Zone (EEZ).

Purpose and Need: The use of shallow-set longline gear (pelagic longline gear set so the deepest point of the mainline between any two buoys is less than 100 m) was allowed under the HMS FMP as developed by the Council. However, use of this gear was prohibited under the the ESA Section 7 consultation (Biological Opinion) done for the HMS FMP as part of its implementation, based on observer records of bycatch from pre-2004 effort representative of the J-hooks and squid bait in use at that time. Simultaneously, vessels operating under the WPFMC's Pelagics FMP were again allowed to use this gear under regulations to use of circle hooks and mackerel bait and take caps (hard caps) for loggerhead and leatherback sea turtles with 100% observer coverage.<sup>1</sup> In the past few years, landings by Hawaii-permitted shallow-set longline vessels have increased dramatically while vessels with only an HMS FMP permit (i.e., no Hawaii permit) cannot use this gear type. This has created an inequitable situation, especially since some Hawaii-permitted vessels are reportedly making shallow-set longline swordfish trips (at least for part of the year) out of West Coast ports and returning to make landings. This action would establish a regulatory framework under the HMS FMP comparable to that governing Hawaii-permitted vessels, allowing vessels with an HMS FMP permit fishing opportunity equivalent to Hawaii-permitted vessels.

Alternatives: No Action would continue the prohibition on shallow-set longline gear under the HMS FMP and the ESA. The HMSMT discussed alternatives that would implement a regulatory framework for a west coast shallow-set longline fishery designed to comply with all applicable Federal law and specifically the Endangered Species Act. This framework would have elements like those implemented for Hawaii-permitted vessels, including the gear requirements and protected species hard caps. Hard cap management would require sufficient monitoring. Alternatives could range from implementing the regulatory framework without an accompanying limited entry program to including a limited entry program based on specified qualification criteria. For hard cap management sufficient monitoring of the fishery would be required to accurately estimate takes. The Hawaii shallow-set longline fishery has 100% observer coverage, for example, which is funded through a specific appropriation.

Workload and Timing: While the Council has considered this type of action in the past, at this time the impact evaluation may be easier, because information from the Hawaii fishery, which is operating in the same area and under the same requirements that a West Coast based fishery would operate, could be used to evaluate impacts. The action could be implemented without an FMP amendment if a limited entry program is not part of the action. The HMS FMP already authorizes pelagic longline and the HMS FMP framework adjustment (regulatory) process can be used to modify the definitions of gear types, so authorizing this gear would be a regulatory amendment only. The HMS FMP identifies a Federal limited entry program as a fixed element of the Plan that would require an FMP amendment to establish. Developing such a program would entail more complicated decision-making, because of the need to identify the criteria necessary to qualify for a permit. A moratorium on the issuance of longline-endorsed HMS FMP permits would offer a stopgap measure that would not require an FMP amendment but would limit participation to holders of such a permit. Currently, there are 90 HMS FMP permits with a longline endorsement. Generally, NMFS has not restricted applicants from obtaining any combination of endorsements on their permit so this number does not accurately reflect the number of likely fishery participants. On the other hand, a moratorium is unlikely to substantially limit entry into the fishery. The EA prepared by NMFS to evaluate the current pelagic longline fishery authorized under the HMS FMP, which targets tuna (using deep-set gear), estimated that up to six vessels would participate in this fishery. If no limited entry program is developed (at least initially) or a moratorium on issuing longline gear endorsed HMS FMP permits is not established, this number may represent the best estimate of the

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<sup>1</sup> Hawaii-permitted vessels were prohibited from using shallow-set longline gear from 2000 to early 2004, because of a court order.

number of vessels that would participate in the fishery. Currently, only one vessel participates in the deep-set fishery but the opportunity to use shallow-set longline gear is likely to attract additional participants since the target species, swordfish, is more abundant in waters off the West Coast compared to bigeye tuna, which is the preferred target species for the deep-set fishery. Estimating the number of likely participants would be an important factor in deciding whether to implement a limited entry permit concurrently with a viable regulatory framework.

### **Authorize Pelagic Longline Inside the West Coast EEZ**

Action: Authorize a pelagic longline fishery inside the EEZ, which is currently prohibited by the HMS fishery management plan (FMP).

Purpose and Need: Fishing with pelagic longline gear in the West Coast EEZ is currently prohibited under the HMS FMP. This provision is based on a preexisting California law prohibiting the landing of fish caught with pelagic longline gear within the EEZ. When developing the HMS FMP the Council considered four alternatives relative to the use of pelagic longline gear in the EEZ (including no action, which at the time was to continue the then current state prohibition) and chose Alternative 2, establishing a general prohibition on the use of pelagic longline gear in the West Coast EEZ (see Section 8.5.2 in the HMS FMP FEIS published in August 2003). HMS FMP Alternatives 3 and 5 would have prohibited pelagic longline gear in the EEZ with a reevaluation after research was conducted on whether the bycatch/protected species take reduction could be achieved. HMS FMP Alternative 4 would have permitted pelagic longline gear in the EEZ as an alternative to DGN gear with specified effort and area restrictions. This proposed action would essentially revisit the alternatives considered during the development of the HMS FMP; but more recent information from research and ongoing Hawaii and West Coast pelagic longline fisheries could be used in the evaluation. As discussed in the HMS FMP FEIS, the original state landing prohibition was mainly motivated by sport fishers' concern that a pelagic longline fishery inside the EEZ could lead to local depletion of striped marlin. The HMS FMP impact evaluation suggests at least two objectives of authorizing the fishery inside the EEZ. One objective is to substitute pelagic longline gear for DGN gear based on the premise that longline would have fewer bycatch/protected species takes than DGN gear. Second, allowing a fishery inside the EEZ would make it more viable by reducing transit times to/from fishing grounds. This could stimulate greater participation in the fishery.

Alternatives: Under No Action the current HMS FMP prohibition on using pelagic longline gear in the West Coast EEZ continues. Action alternatives to address this measure were proposed in the HMS FMP EIS. These alternative could be revisited to develop alternatives going forward. Alternatives 3 and 5 evaluated in Section 8.5.2 of the HMS FMP FEIS proposed testing pelagic longline gear inside the EEZ against specified bycatch/protected species take limits through fishing authorized under a research permit and/or EFP. Based on the test results, the Council would then decide whether to amend the FMP to allow the fishery at some specified future time.<sup>2</sup> The HMS FMP FEIS Alternative 4 would have authorized a limited pelagic longline fishery in the EEZ with effort and area restrictions as an alternative to DGN gear. In developing a new alternative, effort and participation could be limited through the implementation of a limited entry program which has as one of its qualification criteria possession of a DGN permit. Area restrictions could prohibit the use of pelagic longline gear within a specified distance from shore. For

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<sup>2</sup> In April 2007 the Council recommended issuance of an EFP to test pelagic longline gear inside the EEZ but NMFS never issued the permit.

example, under the Pelagics FMP, pelagic longline gear is prohibited near the Hawaiian islands but allowed within its 200 miles EEZ<sup>3</sup>

**Workload and Timing:** As with authorizing a shallow-set fishery outside the EEZ, the Council has considered a pelagic longline fishery (both deep-set and shallow-set) inside the EEZ beginning with the development of the HMS FMP. As noted, in 2007 the Council approved an EFP proposal generally to test pelagic longline gear in EEZ and considered a framework for transitioning DGN fishers to pelagic longline gear in 2009. These previous considerations of actions similar to the alternatives outlined above should make the decision-making process more straightforward and provide substantial background information that could be used to evaluate the alternatives. Since both a shallow-set fishery outside the EEZ and a general pelagic longline fishery inside the EEZ include consideration of a limited entry program, developing a single limited entry permit to cover both situations would be more efficient. Implementation of a limited entry permit could accompany the development of a regulatory framework for the shallow-set fishery while research is conducted on the viability of using pelagic longline gear inside the EEZ. (The limited entry permit could be required for both shallow-set and deep-set gear outside the EEZ given that there is currently only one West Coast based vessel actively fishing deep-set gear under an HMS FMP permit.) If the research reveals an acceptable level of bycatch/protected species take for a fishery inside the EEZ, existing limited entry permit holders (authorized to fish outside the EEZ) could be allowed to fish inside the EEZ. Additional regulations would limit areas within the EEZ open to pelagic longline gear and other requirements to limit bycatch/protected species takes (such as through the use of hard caps). This phased approach would require considering both activities when developing the limited entry permit program, even if initially only fishing outside the EEZ were authorized.

### **Federal Limited Entry Program for DGN**

**Action:** Transition the current California limited entry permit program for DGN vessels to a Federal limited entry permit program under the HMS FMP.

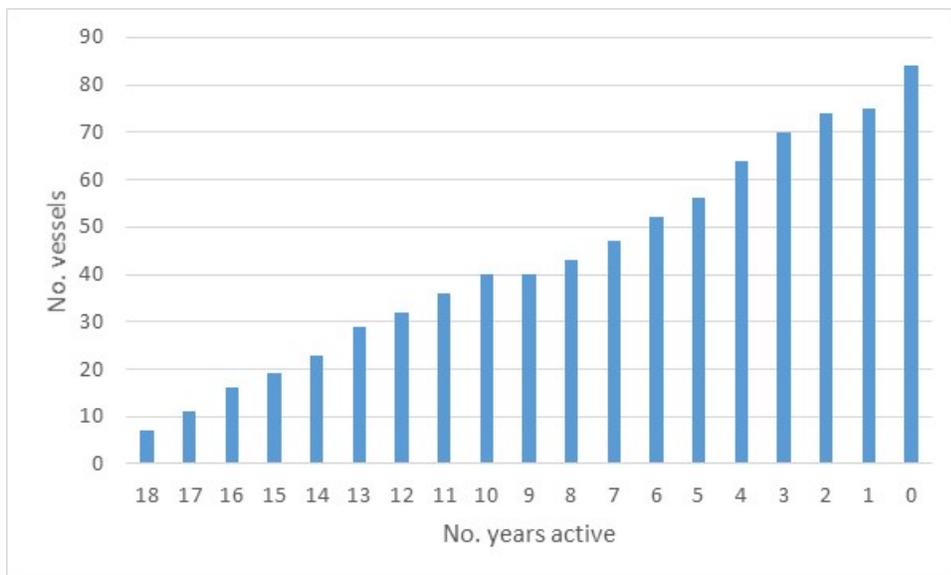
**Purpose and Need:** When the HMS FMP was developed, the Council considered federalizing the California limited entry program but concluded that at that time it was premature given the costs and administrative burdens. However, in June 2014 the Council took initial steps to develop a strategic plan for the future management of the DGN fishery, which includes consideration of a Federal limited entry program. The Council also established a control date of June 23, 2014. The control date gives advanced notice that the Council may develop a limited entry program with permit qualification criteria that could include evidence of past participation in specified activities (such as fishing with DGN gear). A Federal program would give the Council greater scope in controlling participation in the fishery through initial qualification criteria, permit phase out, or gear transition initiatives.

**Alternatives:** Under No Action the Council would not develop a Federal limited entry permit program; relying instead on the existing California state program. Action alternatives could be structured to consider the level of participation in the fishery based on past participation. At one end of the scale all California DGN permit holders as of the control date (June 23, 2014) would receive a federal limited entry permit. Currently there are 70 DGN permits. The Federal permit would be required to use DGN gear in federal waters (3-200 nmi). Other alternatives could be developed with qualification criteria that result in some target size DGN fishery. Figure 1 below shows counts of vessels by the total number of years they were active between 1996 and 2013. Permit qualification that could be set so that a specified

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<sup>3</sup> The Council considered a similar action in 2009 (see [Agenda Item D.2, Attachment 1, April 2009](#)).

number of vessels qualify. For example, if a vessel had to be active in 10 of the years between 1996 and 2013, 40 vessels would qualify. This would be a relatively simple criterion to use that reflects engagement in the fishery.



**Figure 1. Number of years DGN permit holders as of 2013 were active in the fishery, 1996-2013. (Source: [HMSMT Report, Agenda Item K.5.b, March 2014](#))**

**Workload and Timing:** Given the need for an FMP amendment and the complexity involved in designing a Federal limited entry program, this is not an action that could realistically be accomplished through the biennial process. Further, if the Council decides to develop a limited entry program for the pelagic longline fishery (along with establishing regulations for shallow-set gear) it would make sense to consider a single program for both gear types, especially if one of the objectives is to transition DGN to pelagic longline. Consideration of a Federal limited entry program (or programs) should be scheduled on its own decision-making track, which should begin sometime after the biennial management measure process is completed.