

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE REPORT ON DRIFT GILLNET  
HARD CAPS AND OTHER ADOPTED PRIORITIES FOR 2015-2016 FISHERIES

The Washington Department of Fish and Wildlife (WDFW) reviewed the recent discussions and actions of the Pacific Fishery Management Council (PFMC) regarding the development of a transition plan for the drift gillnet fishery to alternative gear types and is providing this preliminary summary for the Council's consideration. Where applicable, we have included descriptions of PFMC's decisions from the Council Decision Documents from when drift gillnet discussions occurred (March 2012, March 2013, March 2014, and June 2014) and additional excerpts from the Council Meeting Minutes from the March 2014 meeting. WDFW believes this information may be helpful in clarifying the Council's vision for the drift gillnet fishery and the objectives of the decisions.

Council Decision Document (March 2012)

The Council requested the National Marine Fisheries Service (NMFS) to determine the next steps for establishing hard take caps for Endangered-Species Act-listed sea turtles in the drift gillnet fishery to mitigate bycatch impacts and requested that NMFS report to the Council at the March 2013 meeting on the progress of research on other gear types targeting swordfish, with a view toward considering regulatory changes to expand or modify the list of authorized HMS gear types for potential use in 2014, depending on the outcome of that research.

Council Decision Document (March 2013)

The Council requested NMFS continue research on alternative swordfish gears, including deep-set longline and buoy gear and directed the Highly Migratory Species Management Team (HMSMT) to: Evaluate a potential modification of the Pacific Leatherback Conservation Area with 100% observer coverage and vessel monitoring system (VMS) requirements and include an estimate of future fishing effort in this area under the specified conditions in the analysis. The Council also directed the HMSMT to evaluate whether the current 20% observer coverage rate is sufficient and the feasibility of a VMS requirement for the DGN fishery and, in cooperation with NMFS, continue analysis of the use of sea turtle "hard caps" (interaction limits that when reached, close the fishery) for managing the DGN fishery. The Council asked NMFS and the HMSMT to report to the Council in early 2014 on progress on these assignments.

In March 2014, there was considerable discussion about pending legislation in the California State Legislature to ban the use of drift gillnet gear and the implications of that action relative to future management of the fishery. The Situation Summary recounted the recent actions by NMFS in response to the taking of a sperm whale in the drift gillnet fishery and noted that, for expediency, emergency action had been taken under the authority of the Marine Mammal Protection Act (MMPA); however, the Situation Summary also noted that the Council could consider similar measures under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) "to

balance environmental stewardship and socioeconomic objectives with regard to managing the fishery.”

During Council discussion, the March 2014 meeting minutes reflect (p.62) the following comments by Mr. Anderson with regard to future management of the drift gillnet fishery:

“On the one hand, the Council could accept the status quo, perhaps with some additional regulations to minimize bycatch to the maximum extent practicable while waiting to see whether California legislation banning the fishery passes. Under this path the Council would need to accept this gear type would be a part of the future of the swordfish fishery. The Council decisions [would] then focus on fishery transition issues and protected species bycatch reduction. Notwithstanding, if the California legislation passes, a federal permit program may need to be established. No matter what happens in the short term, the Council should support extending the temporary emergency rule while NMFS promulgates the permanent rule. On the other hand, if the long-term plan is [to] end the use of drift gillnet (DGN) gear, then viable alternative gear types need to be developed through issuing EFPs. Mr. Anderson advocates this latter path. DGN fishermen should understand the Council’s intent to transition the fishery to other gear types. He recommends the HMSMT work with industry on developing a transition plan.”

Following this, a few Council members, including Ms. Kirchner and Ms. Yaremko, voiced support for developing a transition plan, and there was additional discussion on the development of a federal permit.

In Dr. McIsaac’s summary of his understanding of the consensus of the Council, the minutes state (p.64):

“Dr. McIsaac said he heard the Council recommending the HMSMT develop a transition plan that would cover all the options that have been discussed, including a federal permit and eventually moving to other gear types. At the same time, soliciting EFP proposals would provide an immediate information gathering opportunity. The Council would publish a public notice soliciting proposals for alternative gear EFPs, which the Council would consider in June.”

From this, the Council decision document reflected the following:

The Council took several actions toward a goal of developing a comprehensive plan to transition the current drift gillnet fishery to a fishery utilizing a suite of more environmentally and economically sustainable gear types that can effectively target the healthy West Coast swordfish stock operating under MSA authority. The Council actions are:

1. Sending a letter to NMFS requesting reinstatement of the emergency rule that lapsed on January 31 and implementation of the Pacific Offshore Cetacean Take Reduction Team recommendations so there is no gap in application while NMFS implements permanent regulations on this matter.

2. Requesting NMFS provide a report at the June Council meeting on issues and possible solutions to more comprehensively place a transitioning swordfish fishery under MSA authority, including Federal permit options that would replace the current California State permit regime.
3. Tasking Council staff with noticing the public that the Council would consider preliminary experimental fishing permit (EFP) approval on fishery transition proposals at the June 2014 Council meeting, and encouraging EFP submission. Further, the Council directed the HMSMT to prepare research protocols to guide the evaluation of EFPs to test alternative gear types.
4. Tasking Council staff, the HMSAS, and the HMSMT with initial development of a fishery transition plan and possible regulations under a typical MSA process, with the transition period being of sufficient duration to maintain a reasonable commercial flow of swordfish to domestic markets during the transition. The initial compilation of ideas was scheduled for the June 2014 Council meeting, with typical MSA process management tools to use such things as, seasons, areas, allowable gear alternatives, and integration of EFP results.

In June 2014, the Council had further discussion on the development of a transition plan for the drift gillnet fishery and development of management measures that should apply to the fishery in the interim. As described in the Council's Decision Document, the Council adopted a set of policy objectives for managing the West Coast swordfish fishery under full MSA authority for 2014 and beyond:

- Reduce bycatch in the California drift gillnet fishery through the use of hard caps for high priority protected species (marine mammals and sea turtles) and measures to reduce discard of other species. If hard caps are reached or exceeded during a fishing season, the fishery would be closed for the remainder of the season. Hard caps are to be evaluated for the following species: fin, humpback, and sperm whales; and leatherback, loggerhead, olive ridley, and green turtles.
- Establish a control date of June 23, 2014, for purposes of possibly considering a future federal DGN limited entry program under MSA authority.
- Increase observer coverage rates above 2013 levels for the DGN fishery to facilitate implementation of bycatch reduction measures such as hard caps. The beginning of the 2016/2017 DGN fishing season is identified as a target for implementing full monitoring and accountability through onboard observers and/or electronic monitoring systems.
- Support collaboration between fishing communities, agencies, scientists, and nongovernmental organizations to develop alternative fishing gears, conduct research to further minimize bycatch in the DGN fishery, maintain a viable domestic West Coast

highly migratory species fishery, and reduce capacity in the DGN fishery through buyouts or other incentives.

- Explore regulatory amendments that would remove exemptions for unobservable vessels in the DGN fishery.
- Routinely review DGN fishery performance to evaluate its ability to operate within hard cap levels and successfully minimize bycatch of other discard species according to bycatch performance standards to be adopted by the Council.
- Evaluate future access to Pacific Leatherback Conservation Area in light of full accountability and acceptable bycatch cap levels.

In summary, WDFW believes that the Council selected its preliminary preferred alternatives in September 2014, which are described in Agenda Item I.4.a, Attachment 1, with the intent of accomplishing the policy objectives described above from the June 2014 meeting, which support the Council's overarching goal to end the DGN fishery and transition it to a fishery utilizing a suite of more environmentally and economically sustainable gear types that can effectively target the healthy West Coast swordfish stock operating under MSA authority, as identified at the March 2014 meeting.

Specifically, in our opinion, the Council is attempting to balance social, conservation, and environmental concerns with economic and long-term sustainability fishery objectives, from a policy perspective, which are consistent with its authority under the MSA. The proposed management measures, such as hard caps for marine mammals and sea turtles, take into account the best available science and population status of marine mammals and sea turtles and are intended to avoid potential conflicts with the MMPA and Endangered Species Act, but are not intended as an attempt to manage the populations of these animals through MSA.

With that understanding, WDFW recommends that Council:

1. Send a letter to NMFS clarifying our intent as described above; and
2. Direct the HMSMT and Council staff to prepare a draft Purpose and Need for the drift gillnet transition plan, include the goal and objectives described above, and structure the descriptions of the preliminary preferred alternatives in light of these objectives for the Council's consideration in March 2015.