

DRIFT GILLNET MANAGEMENT

Since 2001 an annual August 15–November 15 time/area closure has been applied to the drift gillnet (DGN) fishery currently managed under the Council’s fishery management plan (FMP) for U.S. West Coast Fisheries for Highly Migratory Species (HMS). This seasonal closure extends from the waters off of Monterey, California to the mid-Oregon coast and westward beyond the Exclusive Economic Zone (EEZ) to 129° West longitude. National Marine Fisheries Service (NMFS) established the closure because of the incidental take of species listed under the Endangered Species Act (ESA) and in particular the endangered leatherback sea turtle (*Dermochelys coriacea*). Representatives from the DGN fishery argue that this seasonal closure has made the fishery less economically viable, leading to a steady decline in participation. They also suggest that the fishery, as it would be prosecuted under the proposed action, would have a substantially reduced level of effort compared to what was analyzed in the 2000 and 2004 biological opinions (BOs) completed by NMFS for the DGN fishery. Furthermore, there is new information on the incidental take rate (or catch per unit of effort) of leatherback sea turtles in the DGN fishery and new information on leatherback distribution that may affect fishing and minimize impacts to endangered leatherback sea turtles. These concerns were brought to the attention of the Council directly and through their advisory bodies. As a result, in June 2005 the Council directed the Highly Migratory Species Management Team (HMSMT), with input from the Highly Migratory Species Advisory Subpanel (HMSAS), to develop a range of alternatives to the current regulatory regime for the DGN fishery that would respond to these concerns.

The HMSMT and HMSAS held joint meetings August 3–5 to begin work on a preliminary range of alternatives. During those meetings they began to focus on using an exempted fishing permit (EFP) as a way to allow a very limited fishery within the closed area. The HMSMT met again October 3–4 to further develop the range of alternatives. (Agenda Item J.3.a, Attachment 1, summarizes that meeting.) In the interim between the two meetings they worked with Mr. Chuck Janisse of the Federation of Independent Seafood Harvesters (FISH) on the preparation of a draft EFP application (Agenda Item J.3.a, Attachment 2) for consideration by the Council. If the Council adopts HMS EFP protocols as discussed under Agenda Item J.2, the interim protocol may apply (Agenda Item J.2, Attachment 2). With regard to a two meeting protocol, this Council meeting would be the first of two meetings during which the Council will consider the EFP and decide whether to recommend to NMFS that it be approved; the March 2006 Council meeting would be the second.

The EFP would test the efficacy of various management measures and the economic viability of a DGN fishery within the current time/area closure. Use of an EFP would also allow gathering additional information about the effects of changes to the fishery (a smaller closed area for example), and interactions with sea turtles, before considering new regulations to permanently change current DGN management measures. At the same time it would be subject to management measures to ensure that the incidental take of leatherback sea turtles would be limited to levels not likely to jeopardize the continued existence of the species as determined by a new BO triggered by this action. (The BO is prepared by NMFS pursuant to the ESA and evaluates whether a proposed action will jeopardize the continued existence of an ESA-listed species. It is the functional mechanism in ESA section nine that allows the incidental take of a listed species.)

The measures that would be imposed on the EFP are either a cap on the incidental take and/or mortalities of leatherback sea turtles, a limit on effort (number of sets), or a combination of these two limits. In order to ensure accurate accounting, the EFP would be subject to 100% observer coverage with a mechanism for real-time reporting of any takes. If the cap on takes is reached, the EFP would immediately cease. Likewise, if a set limit were established the EFP would cease if that limit were reached before the incidental take cap or the end of the time/area closure (November 15) were reached. Notably, the amount of available observer time, which is currently uncertain, may impose a constraint on the level of effort expended under the EFP.

These EFP management measures are a component of the alternatives (Agenda Item J.3.b, HMSMT Report). In addition, there are alternatives that modify the area where fishing may occur, either under an EFP or for all DGN permit holders. Three of these alternatives would require a regulatory amendment to modify the closed area boundary (alternatives 3a–3c) or eliminate it (alternative 3d). As a regulatory change these modifications would be applicable to all DGN permit holders.

The Council task at this meeting is, first, to review the range of alternatives presented by the HMSMT, make any modifications, and authorize public review of the ranges of alternatives with modifications, if any. Second, the Council should take preliminary action on the EFP application.

NMFS, Council staff, and the HMSMT, will then begin work on the environmental assessment, to make a draft assessment available to support Council decision-making at the March 2006 meeting. Once the Council chooses a preferred alternative NMFS Southwest Region Sustainable Fisheries Division will initiate formal consultation with the Protected Resources Division and a BO will be completed for the action. The process is designed to have any final action by the Council for an EFP and/or any regulatory changes implementable on or before August 15, 2006.

Council Action:

- 1. Adopt Public Review Draft of Proposed Options to Modify the Drift Gillnet Time/Area Closure.**
- 2. Take Preliminary Action on EFP Application.**

Reference Materials:

1. Agenda Item J.3.a, Attachment 1: Highly Migratory Species Management Team and Ad Hoc Highly Migratory Species Management Committee Meeting Summary
2. Agenda Item J.3.a, Attachment 2: Draft Exempted Fishing Permit Application
3. Agenda Item J.3.b, HMSMT Report
4. Agenda Item J.3.d, Public Comment

Agenda Order:

- a. Agenda Item Overview
 - b. Highly Migratory Species Management Team Report
 - c. Reports and Comments of Advisory Bodies
 - d. Public Comment
 - e. **Council Action:** Adopt Public Review of Proposed Options to Modify the Drift Gillnet Time/Area Closure
- Kit Dahl
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