

HIGHLY MIGRATORY SPECIES MANAGEMENT TEAM SUPPLEMENTAL REPORT ON DEEP-SET BUOY GEAR EXEMPTED FISHING PERMITS

Observer Coverage

At its September 2016 meeting, the Pacific Fishery Management Council (Council) tasked the Highly Migratory Species Management Team (HMSMT) with developing criteria for deciding the appropriate observer coverage levels for all new deep-set buoy gear (DSBG) exempted fishing permits (EFPs).

The precision of catch, bycatch, and protected species interaction rates increases with the amount of observer effort. However, given that observer coverage is self-funded by EFP participants, a high observer coverage rate requirement increases the cost burden of DSBG fishing effort, reducing profitability of fishing and reducing incentives for EFP participation. The amount of information collected from observed and unobserved fishing effort (i.e., logbooks) available to inform ongoing efforts to potentially authorize a DSBG fishery would thus be reduced with higher observer requirements. Given that EFP effort thus far has demonstrated DSBG to have low protected species interaction risk, a very high required level of observer coverage on all future DSBG EFP effort may be unnecessary.

The HMSMT discussed several potential factors that the Council may want to consider in determining appropriate levels of EFP observer coverage. The HMSMT proposes the following approach as a consistent set of criteria for determining an appropriate observer coverage level for approved and future DSBG EFPs. This approach would apply to EFPs proposing to use traditional DSBG or modified DSBG configurations, which at this time includes linked buoy gear (LBG). These are not intended as automatic coverage levels, but to be applied at Council discretion. For purposes of counting fishing effort and experience towards reducing observer coverage levels, a set is defined as 10 pieces of buoy gear soaked for at least eight hours.

Level 1: The first year of any EFP fishing activity. Require 100 percent observer coverage with a minimum of 10 sets fished, except for:

- 1) Any EFP submitted and managed by a government or research entity, as the Council deems appropriate.
- 2) EFP participants with a minimum of 10 sets of DSBG experience under another EFP.
- 3) Any EFP utilizing “traditional” DSBG configuration in the Southern California Bight, in which case 100 percent observer coverage is only required for the first five sets fished under that EFP.

If an EFP holder wishes to reduce their required observer coverage below 100 percent during their first year of EFP fishing activity, they may submit an interim EFP progress report to the Council after completing at least their first 10 sets (with 100 percent observer coverage). The HMSMT

would consider this report when making recommendations to the Council whether to reduce the EFP's required observer coverage level for the remainder of that year.

If the applicant chooses not to submit an interim progress report, the 100 percent observer coverage would continue to apply to all activity during the first year of the EFP.

Level 2: The second year of any EFP which fished at least 10 observed sets during its first year OR exceptions 1-3 as listed in Level 1. Require maintaining a minimum of 30 percent observer coverage, except for:

- 1) New EFP participants joining an existing DSBG EFP. These participants would need to fish 10 sets with 100 percent observer coverage, the same as Level 1 above, before 30 percent observer coverage applies.
- 2) Any EFP for which the Council (based on advice from the HMSMT) considers it necessary to continue 100 percent observer coverage after receiving the required one-year report from the EFP applicant.

Level 3: Year three and after. Require maintaining a minimum 30 percent observer coverage, except for:

- 1) New EFP participants joining an existing DSBG EFP would need to fish 10 sets with 100 percent observer coverage, the same as Levels 1 and 2 above, before 30 percent observer coverage applies.
- 2) Any EFP for which the Council (based on advice from the HMSMT) considers it appropriate to recommend a lower observer coverage level.

Exempted Fishing Permit Applications

At the June 2016 meeting, the Council moved to accept applications for DSBG EFPs at any Council meeting when HMS is on the agenda. Two new EFP applications were received for consideration at the November 2016 meeting. The first application, submitted by Mr. Fred Hepp, proposes to use DSBG similar to previously approved EFPs. The second application, submitted by the Pflieger Institute of Environmental Research (PIER), would test LBG, a modified version of DSBG, in conjunction with DSBG. Additionally, public comment was submitted on behalf of Mr. Steve Mintz, requesting extension of his EFP conditional on a reduced level of observer coverage.

In June 2016, the Council diverged from Council Operating Procedure (COP) 20 when it decided to accept DSBG applications at all Council meetings when HMS is on the agenda to provide additional opportunity in the EFP process. Adopting a standard DSBG EFP application ([Agenda Item I.4.a, HMSMT Report](#)) would simplify the application process, ensuring all pertinent information is included in the initial application. The HMSMT requests the Council clarify whether all DSBG EFP applications should continue to require a two meeting approval process, as specified in COP 20, or if DSBG EFP applications which the HMSMT considers complete could be received and approved at the same meeting, which may streamline the approval process and encourage additional applications.

Substantial time can be spent reviewing an EFP application prior to discovering a violation history which disqualifies the EFP from further consideration. The HMSMT suggests adding a section to the standard EFP application template in [Agenda Item I.4.a, HMSMT Report](#) for self-reporting by all vessel operators participating in the EFP whether or not they have a record of recent fisheries violations (i.e. yes/no). Additionally, the HMSMT would like to emphasize that a record of violations does not necessarily exclude a vessel operator from participating in an EFP.

Summary of HMSMT recommendations for new EFP Proposals

I.) Agenda Item I.4, Attachment 2; Deep-Set Buoy Gear – Fred Hepp

A) HMSMT Recommendation:

- Council preliminary approval

B) Merits:

- Aligns with Council goals
- Complete in regard to COP 20
- Application addresses important data gap of gear use in more northern waters (northern Channel Islands and central California)
- Application specifies anticipated amount and area of effort
- Applicant expresses willingness for alternative methods of observer coverage (electronic monitoring)

C) Suggestions and Comments:

- Terms and Conditions for current EFPs prohibit fishing effort in Leatherback Critical Habitat (LCH). However, it is the HMSMT's sense that this prohibition might have been directed to longline and drift gillnet EFPs that were considered concurrently with initial DSBG EFPs and does not feel that this prohibition should be continued for DSBG EFPs, given the sea turtle mitigation features of DSBG design. LCH extends out to approximately 40 nautical miles down to a depth of 80 meters. DSBG is designed to fish well below this depth after rapid deployment (~ 90 seconds). The Council's previously recommended prohibition of EFP fishing in the LCH may result in safety concerns as DSBG EFP participants with small vessels would then be required to fish further from shore, where oceanic conditions are generally less predictable.
- It has been brought to the HMSMT's attention that use of electronic monitoring on vessels not already outfitted with equipment would impose a very high initial cost (~\$10,000), and therefore might represent an unrealistic cost hurdle to supplementing observer coverage.
- The HMSMT recommends that the Council apply Level 1 observer coverage (initially 100 percent) for this EFP as described above.
- The HMSMT has determined that the proposal does not include a significant scientific component that warrants SSC review.

II.) Agenda Item I.4, Attachment 1; Deep-Set Linked Buoy Gear – Pflieger Institute of Environmental Research (PIER), Chugey A. Sepulveda

A) HMSMT Recommendation: Preliminary approval with resubmission of application after requested revisions

B) Merits:

- Aligns with Council goals
- Complete in regard to COP 20
- Application tests linked buoy gear (LBG), a new configuration of DSBG, in conjunction with the traditional configuration and methodology.
- PIER has developed DSBG as well as LBG and has already undertaken initial research and use.
- LBG utilizes all DSBG mitigation measures developed to avoid interactions with high-priority protected species while potentially increasing the volume of catch, and therefore revenues and profitability, for fishers.

C) Suggestions and Comments:

- The application proposes to permit the use of both “traditional” (free floating single buoy) DSBG and LBG during the same trips, as well as simultaneously in the water, to allow for the most flexible and productive fishing methodology. As a result, the HMSMT feels the Council should specify a limit on the number of pieces of gear (and possibly total number of hooks) that can be simultaneously deployed to avoid potential over-use of gear. Such a limit (such as 10 pieces of gear and 30 hooks), of either or both types combined, in the water at any given point, would maintain feasibility of active tending while allowing fishermen flexibility to take the most advantage of changing oceanic conditions.
- This EFP application is not designed as an experimentally controlled side-by-side comparison of catch composition or magnitude between individual DSBG and LBG gear. Rather, it is designed to investigate the overall performance of an expanded definition of “buoy gear,” which would include both traditional DSBG and the proposed LBG configuration. In particular, participants would have the option to choose which gear, or combination of the two gears, to use under given fishing conditions.
- The application proposes 100 percent observer coverage for the first 10 sets fished by each vessel, followed by no less than 30 percent coverage thereafter. This is similar to the HMSMT’s approach outlined above, and in light of PIER’s research background (as previously considered by the Council), the majority of the HMSMT feels that this observer coverage level proposal, which is a hybrid of its proposed Level 1 and Level 2 observer coverage tiers, is appropriate for this application.
- The HMSMT has determined that the proposal does not include a significant scientific component that warrants SSC review.

D) Requested Revisions:

- The applicant should clarify the proposed combination of gears and configurations to be used, as well as the method of use, and specify the relationship between this new proposal

and the previously authorized DSBG EFP under which two of the proposed vessels are currently participating.

- The applicant should define a “piece” of LBG, as well as how many total pieces of gear (both DSBG and LBG) will be deployed at any one time.
- The applicant should include a figure of the LBG configuration for Council reference

Public Comment on Behalf of Stephen R. Mintz

Mr. Jonathan Gonzalez, who submitted the letter under public comment on behalf of Mr. Mintz, shared with the HMSMT the reasons behind Mr. Mintz not fishing his EFP as issued in 2015. While the 100 percent observer coverage requirement has been mentioned as a limiting factor in the utilization of this EFP, the inability to fish DSBG off of Oregon and Washington (as originally requested in his EFP application) was also suggested as restraining the potential economic benefit to such a degree that Mr. Mintz could not justify the cost of purchasing gear and obtaining an observer. Mr. Gonzalez requested that Mr. Mintz’s required observer coverage be 30 rather than 100 percent and that he be allowed to fish as far north as the Columbia River.

Dr. Sepulveda expressed his intent to assist Mr. Mintz by overseeing his training in the use of the gear on PIER EFP vessels should Mr. Mintz requests be granted.

If the Council chooses to implement the observer coverage conditions laid out by the HMSMT, the Council may consider recommending that NMFS should approve extension of this EFP, subject to these conditions.

PFMC
11/20/16