

## HIGHLY MIGRATORY SPECIES ADVISORY SUBPANEL REPORT ON SWORDFISH FISHERY MANAGEMENT

It is important for the Council to recognize that there are only two sources of swordfish production within the Exclusive Economic Zone (EEZ): harpoon and drift gillnet (DGN) fishery. Longline production of domestic swordfish landings occurs outside the EEZ on the high seas. The Highly Migratory Species Advisory Subpanel (HMSAS) notes the continued decline of swordfish landings by harpoon and DNG fishermen.

The HMSAS offers the following perspectives on Federal permitting of a future deep-set buoy gear (DSBG) fishery and linkages to a Federal permit for California large-mesh DGN. These comments respond to the Supplemental CDFW Report from the September 2016 Council meeting (Agenda Item G.6.a.).

### **Connectivity between future DSBG permits and DGN permit endorsements.**

Separate permits for DGN and DSBG should be issued, although we believe that possession of a DGN permit is a qualifying criteria for DSBG permits once they are authorized. If the decision is to go with a permanent limited entry program, both permit types should be fully transferable. This will allow new entry into the fishery and put another tool in the toolbox to allow commercial harvesters to profitably operate. It should be recognized that permit transfers and fishery entry are not without considerable costs, so there is a financial barrier to participation in the fishery.

### **Size of an authorized and permitted DSBG fleet by geographic area.**

The HMSAS concluded it is premature to identify the appropriate number of permits that should be issued.

If a limited entry permit is implemented, current DGN, harpoon and Exempted Fishing Permit (EFP) holders should be given priority for obtaining a DSBG permit. By themselves these criteria would result in around 80-90 permits. A survey of DGN permit holders (Agenda Item I.4/I.5, Public Comment, November 2015) found that at least 15 DGN permit holders (out of 24 survey respondents) are interested in applying for DSBG EFPs. Of course, DGN fishermen who obtain an EFP would not increase the potential pool of DSBG permit holders as defined above. HMSAS believes there may be good potential for fishing in Northern and Central California; however, no EFPs have been tested in this area yet. This would have an influence on the appropriate number of permits issued.

### **Qualifying criteria, if any, to determine DSBG permit issuance.**

The HMSAS discussed three approaches to permitting a DSBG fishery: 1) an open access fishery (only the current HMS FMP permit required with a new endorsement for DSBG), 2) a “traditional” limited entry program where a fixed number of permits are issued upon

implementation, and 3) an “interim” limited entry permit, similar to what has been done by the Alaska Commercial Fisheries Entry Commission, which allows the number of permits to be adjusted after some initial period. This third option encompasses the idea of a “phased in” approach. The HMSAS believe these three options should be analyzed as part of developing the permit program and offers the following pros and cons for each option:

### **Open Access Pros and Cons**

#### PROS

1. Encourages new participants/recruitment (young or old) into CA commercial fisheries which have declined over 75% over the last 30 years.
2. Allows for higher domestic swordfish production compared to limited access.

#### CONS

1. Potential for overcrowding.
2. Increased probability of gear conflicts and non-target species interactions/entanglement.

### **Traditional Limited Entry Pros and Cons**

#### PROS

1. Avoids social conflict – too much gear crowding causing conflict among different fishery interests in the most productive areas of the Southern California Bight.
2. Enforcement – easier to track a smaller number of participants and the associated gear.
3. Inexperience – limit misuse of gear by novice fishermen which could lead to unwanted interactions with non-target species, i.e., by-catch.
4. Economics – viability of DSBG is based on limited supply of high quality product. Too many participants would cause problems due to possible over production.
5. Potential Benefits - Assuming that limited entry is offered to existing DGN, EFP and harpoon permittees, a mechanism could be put in place to allow for retirement of latent permits; perhaps 2 DSBG permits for one DGN permit. This is an option the ENGO's are seeking.

#### CONS

1. Must meet NMFS guidelines.
2. Puts a limit of take in an underutilized stock.
3. Limits entry to a select few.

### **Interim Limited Entry Pros and Cons**

Fishery management for many years has struggled with optimum fleet sizes as the demand for fresh seafood has greatly increased. Difficulties exist in cutting down over capitalized open access fisheries because of investments by participants. Likewise it has been a difficult process to enlarge an existing limited access fishery for the same reason, namely how much someone may have paid for a share of a fishery or for alternative opportunities the limited entry participant gave up to participate in the fishery.

Alaska uses an interim use permit for the purpose of determining the eventual terms of a limited entry program. The program operates as either an open access program or for introducing a new gear for an existing fishery. The permits are renewed annually under the supervision of the management agency which eventually determines the appropriate number of participants based upon active participation, performance, and potentially other criteria. This approach has the advantage of placing a notice that obtaining an interim use permit does not necessarily mean they will qualify for a permanent limited entry permit. Additional consideration would need to be given to whether initial participants in a program limited to the commercial swordfish fishery could or should be limited to recent fishery participation. The interim permits would be non-transferable and renewable on an annual basis until such time as the agency determined if the fishery would continue. If the fishery continued then the agency would issue transferable permanent limited entry permits to those participants who qualified. Likewise consideration of entry qualifications for the interim use could or could not provide limited use permits to crew members of swordfish boats in addition to the boat owners and captains.

#### PROS

1. Allows for what is effectively a large scale EFP to empirically determine the extent of or necessity of a limited entry program for the DSBG fishery and what the qualifications and size of the fishery should be.
2. Participants are on notice that they may not qualify for an eventual permit.\*

#### CONS

1. May allow for excess initial participation.
2. May need for some action by Council to authorize such an approach as used in Alaska.
3. Participants are on notice that they may not qualify for an eventual permit.\*

\*This statement could be a pro or con depending on the circumstances.

#### **Qualifying Criteria:**

The HMSAS discussed potential qualifying criteria aside from DGN permit holders, EFP participants, harpoon permit holders, and crew members. It is recognized that any set of criteria will produce winners and losers. For example, if recent landings are a criterion, then individuals that were active in the past and are interested in reentering the fishery using DSBG may not qualify.

The HMSAS recognizes that the MSA (section 303(b)(6)) establishes guidelines and requirements for establishing limited entry programs. It will be important that any qualifying criteria are deemed fair and equitable.

**HMSAS supports the Council view that the DSBG fishery is intended as a supplement to other swordfish gears (harpoon and DGN gear) and not a replacement.**

The HMSAS strongly believes that DSBG should supplement current gear types. Fishermen need to have a range of tools for catching swordfish that are most effective at different times and

places. If hard caps are implemented or set too low, the DGN industry may be temporarily put out of business and will need another harvest option.

**What is the right size for the future DGN fishery? Should the number of permits be reduced?**

The HMSAS opposes a reduction in the number of DGN permits because:

1. There is no purpose or need to reduce the number of permits.
2. Negligible impact determination in latest biological opinion of the fishery.
3. Natural attrition in DGN permits is already occurring.
4. Revoking DGN permits without a purpose and need will result in multiple lawsuits.

The HMSAS is not opposed to incentives for DGN fishermen to voluntarily transition to DSBG. For example, an option could be for fishermen to receive two DSBG permits for one DGN permits. The DSBG permits should be fully transferrable so if the Council moves in the direction of making the fishery limited entry, fisherman could then sell the extra permit. This voluntary exchange would not preclude DGN fishermen obtaining a DSBG permit without surrendering their DGN permit.

As we move forward towards federalization of the DGN permit, and modifying the FMP to include the DSBG, a very important consideration would be to put the permits linkable to a vessel of the owner's choice similar to other HMS fisheries.

**Summarization:**

HMSAS recommends that the Council schedules final action in federalizing the DGN permit for the March 2017 meeting.

HMSAS realizes that this will be the first time that Council makes a decision on new HMS gear type. HMSAS deliberated extensively on multiple options to help inform the Council in considering future decisions regarding swordfish fisheries. Because of insufficient data (geographical gaps, legalities of open access or limited entry), HMSAS feels that it currently is premature to make a final recommendation regarding DSBG authorization.

PFMC  
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