

FISHERY MANAGEMENT PLAN AMENDMENT 5: FINAL ACTION AUTHORIZING FEDERAL DRIFT GILLNET PERMIT

Since 2014, the Pacific Fishery Management Council (Council) has been considering creating a Federal limited entry permit for the California large-mesh drift gillnet (DGN) fishery for swordfish and shark. Such a permit would replace the current California limited entry DGN permit. The Council had scheduled action on this issue in 2016. California Senate Bill 1114, which would have established conditions to phase out the DGN fishery in conjunction with a permit program for a deep-set buoy gear fishery, provided additional impetus for the Council to address the Federal permit issue. A Federal permit would give the Council more control over participation in the fishery over the long-term. Although Senate Bill 1114 died in committee, similar legislative proposals may emerge in the future, limiting the Council's scope of action in managing this fishery.

In September 2016, the Council adopted the following alternatives for creating a Federal DGN limited entry permit:

- **No Action Alternative** (Status quo): The Council would not move forward with creating a Federal DGN permit. DGN permitting would continue under the state of California Limited Entry permit program.
- **Alternative 1**: Federalization of DGN permitting as currently issued by the state of California. As soon as possible after Council final action, only fishers authorized to fish with large mesh DGN gear under state law would be entitled to a National Marine Fisheries Service (NMFS) commercial highly migratory species (HMS) permit endorsed for DGN. This would mean that fishers who hold valid state DGN permits on the date of Final Rule publication would be eligible to possess an HMS permit DGN endorsement. Permits could only be transferred once every three years.

At the November 2016 Council meeting, the California Department of Fish and Wildlife (CDFW) and NMFS submitted a report describing in detail how the transition to a Federal permit would work and the features of the Federal permit ([Agenda Item I.5.a, Supplemental NMFS/CDFW Report, November 2016](#), included here as Attachment 1). Agenda Item J.6.a, NMFS Report, describes some features of the Federal permit that need to be changed from what was described in November.

Attachment 2 is Amendment 5 to the Fishery Management Plan (FMP) for U.S. West Coast Fisheries for HMS, which describes the features of the Federal DGN limited entry permit along with other necessary changes to the FMP related to this action. There is some overlap between this FMP amendment and Amendment 4 (see Agenda Item J.4), which would reorganize and revise Section 6.2.5, Permits, and Section 6.2.1, Drift Gillnet Fishery Management Measures. Amendment 5 would also delete portions of sections 1.6.7 and 6.2.6 that are also proposed to be deleted under Amendment 4. However, since the Council is scheduled to take final action on Amendment 5 at this meeting and final action on Amendment 4 in June, Amendment 5 is likely to be transmitted for secretarial review before Amendment 4. Therefore, the overlapping changes are shown both here under Amendment 5 and in Amendment 4.

As part of final action the Council should review the proposed Amendment 5 language and provide any final guidance on this text. NMFS has not yet drafted implementing regulations for this action.

Unless the Council determines otherwise, it should delegate “deeming” of these regulations (per Magnuson-Stevens Act section 303(c)) to the Executive Director.

Council Action:

Council Action: Adopt a Final Preferred Alternative for Authorizing a Federal Limited Entry Permit for the California Large Mesh Drift Gillnet Fishery and Associated FMP Language.

Reference Materials:

1. Agenda Item J.6, Attachment 1: Joint Report Between the NMFS And CDFW on the Federalization of Drift Gillnet (DGN) Permits (Originally, Agenda Item I.5.a, Supplemental NMFS/CDFW Report, November 2016.
2. Agenda Item J.6, Attachment 2: Amendment 5 to the Fishery Management Plan for U.S. West Coast Fisheries for HMS.
3. Agenda Item J.6.a, NMFS Report: NMFS Report on Federal Drift Gillnet Permitting.

Agenda Order:

- J.6 Fishery Management Plan Amendment 5: Final Action Authorizing Federal Drift Gillnet Permit Kit Dahl
- a. Reports and Comments of Advisory Bodies and Management Entities
 - b. Public Comment
 - c. **Council Action:** Adopt a Final Preferred Alternative for Authorizing a Federal Limited Entry Permit for the California Large Mesh Drift Gillnet Fishery and Associated FMP Language

PFMC
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