

HIGHLY MIGRATORY SPECIES ADVISORY SUBPANEL REPORT ON DEEP-SET BUOY
GEAR AUTHORIZATION – FINAL RANGE OF ALTERNATIVES/
PRELIMINARY PREFERRED ALTERNATIVES

The Highly Migratory Species Advisory Subpanel (HMSAS) participated in a Joint Meeting with the High Migratory Species Management Team (HMSMT) to discuss the Pacific Fishery Management Council's (Council's) September 2017 motion to adopt a range of alternatives (ROA) for authorization of a deep-set buoy gear (DSBG) fishery off the U.S. West Coast. See: https://www.pcouncil.org/wp-content/uploads/2018/02/I2_Att1_CouncilAction_DSBG_ROA_September2017_Mar2018BB.pdf. The HMSAS offers the following thoughts, comments and questions on the aforementioned motion.

General Statement on the Proposed Action

The HMSAS appreciates the Council's desire to add another gear type to those currently used to harvest swordfish off the U.S. West Coast. The promise of DSBG to supplement fishing activities currently available to harvesters of swordfish appears worthwhile. However, the HMSAS is still concerned about the perceived need to rush the authorization of a new gear-type. This proposed action is based on an incomplete data set especially outside the Southern California Bight; which is based on a limited number of participants; who have primarily fished in a limited geographic spatial footprint. To date, most of the exempted fishing permit (EFP) activity has taken place in the Southern California Bight.

The HMSAS would strongly recommend delaying this action for at least a year so that those Council recommended, but still unissued, EFPs can be used to gather more data to help inform the alternatives for this gear-type. Although we believe the proposed action is premature, we address the elements contained in September 2017 motion.

Define DSBG and Permits, for the purpose of analysis as follows:

a. Possession:

- i. Permits will be issued to an individual entity.

The HMSAS feels additional clarification is needed as to what an "individual entity" is? We believe the definition of "person", as given in the Regulations implementing the HMS Fishery Management Plan (FMP) would be applicable here and make this part of the Motion, unnecessary. "Person" as defined at 50 CFR §660.702: "Person, as it applies to fishing conducted under this subpart, means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a)."

If that is not the case, we would suggest a more-clear definition of the phrase, “individual entity”.

- ii. Individual entities may hold multiple permits, but permits may not be stacked on a single vessel.

We are supportive of this.

- iii. The permit holder will assign the permit to a specific vessel.

Will there be restrictions on the ability of a permit holder to assign to a different vessel during the fishing season? We recommend the permit holder be allowed to change the vessel designation one time during a calendar year, with an exception for *force majeure* events which render the assigned vessel incapable of operation.

- iv. The permit holder will not be required to be onboard the vessel.

We are supportive of this.

b. Renewal

- i. Permits will be valid for one fishing year and expire if not renewed.

The HMSAS assumes a failure to renew by a certain date could be forgiven in exceptional circumstances.

- ii. (HMSAS suggested addition) Permits which are not renewed.

The HMSAS recommends adding this as potential option for further analysis. Such permits would revert to the issuing Agency and would be made available for issuance to another potential permit holder. If there is a limited entry component to the fishery, a lottery system could be implemented to select a new permit holder.

c. Transfer

- i. Limits on initial transferability

Assuming the ability to limit entry exists, the HMSAS is concerned about the vagueness of the statement. We believe that “such a time”, “stable state” and “benefit management” need additional explanation. While we favor no restrictions on transfer, we would be supportive of limiting the number of transfers for a specific period – for example, once in three years with exceptions for unforeseen circumstances. We also note, the prohibition on initial transferability appears to contradict one of NOAA Fisheries 2018 Priorities to maximize fishing opportunities while ensuring the sustainability of fisheries and fishing communities.

See - https://www.pcouncil.org/wp-content/uploads/2018/02/IR2_NOAA-Priorities-2018_508_Mar2018BB.pdf

d. Gear Description

i. Definition

We are supportive of including a requirement that circle hooks be used.

ii. Gear marking

We are supportive of this.

e. Gear Tending

- i. We suggest adding an exception when actively tending a hooked fish. EFP participants report following hooked fish for up to seven miles which could force a fisherman to chose between violating the gear tending requirement and cutting off the fish.

f. Gear Deployment/Retrieval

We note that this is not a problem for the resource. We do acknowledge that night fishing could interfere with other allowable gear types.

- i. No deployment before local sunrise.

We are supportive of this, if deemed necessary.

- ii. All gear must be aboard the vessel no later than 3 hours after local sunset

We suggest adding an exception when actively tending to a hooked fish or in the process of retrieval.

g. Multiple Gears

- i. Multiple gears may be used on a trip. All landings must be tagged or marked to identify the gear used.

We request clarification and discussion on this. Does this mean that all fish caught with DSBG are to be tagged - but fish caught with other legal gear types do not? So long as a fish is caught with a legal gear type, we do not see any conservation and/or management benefit from this. If this is a concern for markets, the buyer will require this. Having this requirement does not serve any real purpose other than enticing less honest fishermen to cheat the system.

h. Geographic Area

We recommend replacing All Federal waters offshore California and Oregon with the one of the following:

- i. All Federal waters offshore California, Oregon and Washington

We note at least one EFP for DSBG submitted for this meeting requests access to waters offshore Washington which will help inform the viability of future fishing activity off Washington.

- ii. All Federal waters within the Southern California Bight

While the objective would be to eventually cover all waters of the U.S. West Coast, currently we have very little information to know what the fishery above Point Conception would look like.

i. Fishery Timing

We are supportive of this.

j. Species

- i. All legal HMS are allowed

We recommend changing this to read, “All species are allowed unless otherwise prohibited.” There are some species harvested with DSBG not within the HMS FMP.

k. Fishery Monitoring

- i. Logbooks will be required.

We seek clarification regarding whether there be one logbook applicable to all gear types allowed to harvest swordfish or will there be separate logbooks for each gear type?

- ii. All monitoring requirements in the HMS FMP will be followed.

We are supportive of this.

The Range of Alternatives for consideration under NEPA will include:

a. Permitting:

We note that questions still exist whether this fishery can be introduced as a limited entry fishery. Clearly there is no overcapitalization issue. The Western and Central North Pacific Ocean swordfish stock is underutilized. Therefore, there would have to be a finding that limiting entry would promote a social and/or economic benefit. We believe further use of EFPs will help inform this. For purposes of our Report we assume, without analysis, that a limited access privilege program can be established for this fishery.

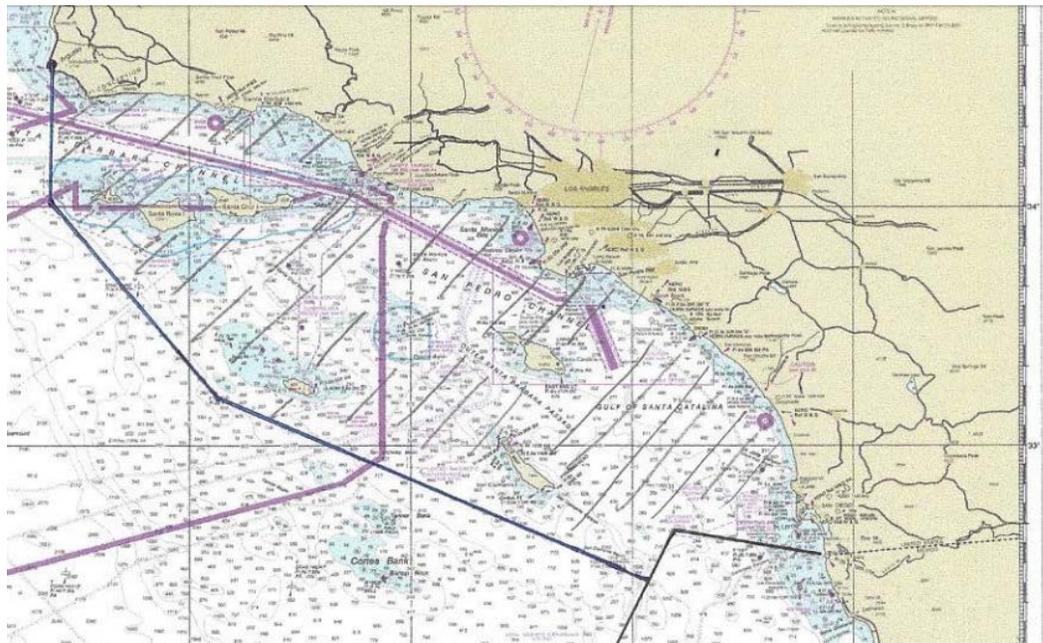
i. Open Access.

We believe this to be the least preferred alternative and assumes no valid statutory rationale exists for creating a limited access privilege program.

ii. Open Access north of Point Conception and Limited Entry South of Point Conception.

1. Limited Entry South of Point Conception Alternatives

The HMSAS recommends the Council consider refining the area described as “South of Point Conception”. For convenience, we propose the term “Limited Entry area within in the Southern California Bight”. This area could be defined as that proposed in public comment (see - http://www.pcouncil.org/wp-content/uploads/2017/10/H3b_PubCom1_Nov2017BB.pdf)



a. Capacity

We recommend adding another option for up to 25 permits in addition to the others included.

The HMSAS notes there is insufficient information to make an informed decision on the optimal number of Permits. The HMSAS also acknowledges that defining an initial number too conservative could result in problems if we later learn the fishery can support more participants. The HMSAS recommends analyzing the possibility of authorizing a maximum number of limited entry permits; but issuing them in stages, as the fishery shows it can support additional participants.

b. Qualifications to obtain permits

i. No qualifications.

The HMSAS is opposed to this option.

ii. Only HMS Permittees

The HMSAS is opposed to this option because in 2017 there were a total of 1,626 HMS Permits issued with 1,415 having a hook and line endorsement.

iii. Only persons with demonstrated swordfish fishery participation to be allocated based on criteria defined by the Council.

The HMSAS is supportive of this option and addresses different criteria below.

Limited Entry Permitting – criteria for obtaining a permit.

As we stated in our Statement from last September (http://www.pcouncil.org/wp-content/uploads/2017/09/J6a_Sup_HMSAS_Rpt1_DSBG_ROA_SEPT2016BB.pdf).

The HMSAS recommends a tiered approach to determining priority for permit issuance as follows:

1. Current (as of March 2018) active EFP Participants who have contributed to the development of the fishery or who have made at least one set. This is designed to reward those fishermen who have invested time and money in the fishery and whose work has informed the ongoing discussions related to authorization of this gear type.
2. Current active Drift Gill Net Permitholders. Active being defined as having at least one DGN landing in the last five seasons.
3. Applicants pending NMFS issuance of their EFP to fish during 2018 who make at least one landing using DSBG and are not included under (1) above.

4. Current Drift Gill Net Permitholders without recent landings. This would include those permitholder with at least one DGN landing within the last ten years, not included under (2) above.
5. DSBG EFP crew (who participated on trips with a minimum of 10 DSBG landings). It is assumed Captains of those vessels will be included in (1) above.
6. Current holders of Drift Gill Net Permits. This would include anyone with a DGN permit who isn't otherwise covered under (2) or (3) above.

PFMC
03/13/18