

NATIONAL MARINE FISHERIES SERVICE (NMFS) REPORT ON HIGHLY MIGRATORY SPECIES (HMS) ACTIVITIES

Deep-set Buoy Gear (DSBG) Authorization and National Environmental Policy Act (NEPA) Analysis

Based on Council proceedings and recommendations made during the November 2018 meeting, NMFS compiled the Council's final range of alternatives (ROA) for authorization of a DSBG fishery, which is included in the Appendix at the end of this report. NMFS is seeking guidance as to whether the ROA correctly reflects the Council's previous motions and decisions during its November 2018 meeting.

Since the November 2018 Council meeting, NMFS has determined that an environmental impact statement (EIS) is the appropriate document to prepare in order to satisfy the requirements of NEPA with regards to the Council's ROA. NMFS has prepared a Notice of Intent (NOI) to prepare an EIS and hold a 30-day open public comment period, with a public hearing scheduled for March 26th from 1-3pm. The NOI invites interested parties to provide comments on alternatives to be considered in an EIS and to identify potential issues, concerns, and any additional alternatives that might be considered. The NOI is expected to publish in the Federal Register prior to the start of the March 2019 Council meeting.

NMFS' initial project timeline included providing an early version of the Draft EIS for the Council's review during this meeting. However, the timeline for completion of a preliminary Draft EIS is dependent on the availability of observer, logbook, and landings data from DSBG exempted fishing permits (EFP's) in 2018. These data are not available to NMFS staff at this time, but will be necessary for completing critical sections of a draft EIS. To date, NMFS has drafted an outline of the EIS as well as draft text for sections describing the background behind the action, the proposed action area, and the affected environment (including target and non-target finfish species, protected species, prohibited species, and socioeconomic factors which may be affected by the proposed action). NMFS plans to present an early version of a draft EIS, which should include 2018 observer data (at a minimum), at the June 2019 Council meeting. This will offer an opportunity for additional Council input prior to selection of a Final Preferred Alternative (FPA).

2018 EFP Data Availability

NMFS staff anticipate receiving observer data and logbook data for DSBG EFPs for the 2018 fishing season in late March. NMFS will use these data to analyze potential rates of target species catch, bycatch of non-target finfish species, and protected species interactions under the various alternatives and sub-options analyzed as part of the draft EIS. In the absence of unforeseen delays, NMFS anticipates completing these biological components of the NEPA analysis in time to present preliminary results at the June Council meeting.

Based on discussions with the Eastern Pacific Professional Specialty Group (EP PSG), NMFS expects complete DSBG landings data for the 2018 fishing season to be available in the Pacific Fisheries Information Network as early as May. These data are needed for analysis of impacts to

the socio-economic environment, including estimation of ex-vessel prices, revenues, and profitability under various management scenarios. Due to the expected delay in landings data availability, NMFS does not anticipate completion of the necessary economic analyses before the September Council meeting.

2018 DSBG EFP Activity Update

Table 1. Information on DSBG EFPs in 2018, through December 31, 2018.

	Standard	Linked
Permits Distributed	29	11
Vessels fished in 2018	24	5
Number of Trips Observed	116	15
Number of Fishing Days Observed	313	44 Linked Days 43 Standard Days 68 Unique Fishing Days
Protected Species Interactions	1 Northern Elephant Seal Released Alive 1 Loggerhead Sea Turtle Released Alive (Entangled in Surface Gear)	None

NMFS plans to provide a comprehensive report on 2018 DSBG EFP activity for the June 2019 Council meeting, dependent on data availability. NMFS staff has been coordinating with the Highly Migratory Species Management Team (HMSMT) regarding their data needs. NMFS will provide individual DSBG EFP holders with guidance on including information that is not collected in other data sources (i.e., observer records, logbooks, landings) in their reports due for the June Council meeting. This may include comments on gear performance, marketing and revenue issues, and any other general issues encountered during EFP fishing.

Preliminary 2019 DSBG EFP Activity

Based on standard DSBG fishing activity in 2018, and other factors taken into consideration, NMFS renewed approximately 20 standard DSBG EFP’s through 2019. The renewals were issued prior to December 22, 2018 and thus potential EFP activity beginning January 1, 2019 was not constrained. Approximately 6 vessels conducted 10 trips in January 2019. Two additional standard DSBG EFPs that did not fish in 2018, but purchased gear and made preparations, are being considered for renewal through 2019. Linked DSBG EFPs issued in 2018 are valid through the end of 2019.

APPENDIX

Council's Final Range of Alternatives

The Council's final November 2018 ROA is described below. For the purpose of analysis, alternatives are structured as follows:

No Action: No DSBG fishery is authorized

Alternative 1: An "open access" fishery in all Federal waters offshore of California and Oregon. Only a General HMS Permit (per 50 CFR 660.707) would be required. General management measures related to fishing gear and its use are included under this alternative

Alternative 2: A limited entry permit is required to fish in Federal waters east of 120° 28' 18" W. longitude; all other Federal waters offshore of California and Oregon would be "open access." This alternative contains options for limited entry permit qualification criteria. All other management measures described under Alternative 1 also apply to Alternative 2.

1 No Action Alternative

DSBG would not be authorized as a legal gear under the HMS FMP. Swordfish are currently targeted using fishing gears authorized for use and managed under the HMS FMP, including harpoon and large-mesh drift gillnet (DGN). The Hawaii shallow-set longline fishery also lands swordfish and other HMS to West Coast ports. If DSBG is not authorized, these gears would remain as the primary fishing gears supplying swordfish to the U.S. West Coast in addition to imported swordfish.

2 Alternative 1: Authorize an Open Access Fishery

Under this alternative, the fishery would be authorized with the following management measures.

2.1 Gear Description

Deep-set buoy gear (DSBG) refers to the overarching gear type in its multiple configurations. Under the umbrella of DSBG, there is currently standard buoy gear (SBG) and linked buoy gear (LBG). Both of these gear types would be authorized initially.

Definitions:

Standard Buoy Gear (SBG) - An individual piece of SBG consists of a vertical monofilament mainline suspended from a buoy-array with a terminal weight. Up to three gangions with hooks may be attached to the mainline at a minimum depth of 90 meters.

Linked Buoy Gear (LBG): An individual piece (section) of LBG consists of a monofilament mainline which extends vertically from a buoy-array (either directly or from a minimum 50 foot poly-line extender) to a weight; then horizontally to a second weight; then vertically to a minimum 50 foot poly-line extender attached to a second buoy-array. Up to three gangions with hooks may be connected to each horizontal section of the mainline, all of which must be fished below 90 meters. The pieces may be linked together by the mainline, which is serviceable between each piece of LBG and must be suspended between links below a depth of 50 feet. No more than 10 sections of LBG may be deployed at any one time, with no more than 3 hooks per section.

Both DSBG configurations (SBG and LBG) must meet the following specifications:

- 1) Buoy-array: The surface buoy flotation and strike detection array consists of a minimum of three buoys (a minimum 45 lbs buoyancy non-compressible hard ball, a minimum 6 lbs buoyancy buoy, and a strike detection buoy) with no more than 6 feet of line between adjacent buoys all connected in-line by a minimum of 3/8 inch diameter line. Use of buoy tether attachments (e.g., non-streamlined gear with loops and/or dangling components) is prohibited. SBG and terminal LBG buoy-arrays must include a locator flag, a radar reflector, and vessel/fisher identification compliant with all current state requirements and regulations.
- 2) Weights must be a minimum of 3.6 kg.
- 3) Lines connecting surface buoys must be at least 3/8" diameter.
- 4) Minimum size 16/0 circle hooks with not more than 10° offset
- 5) No more than ten pieces of SBG or LBG may be deployed at one time, with no more than three hooks per piece.

2.2 Gear Tending

All pieces of gear must remain within a 5 nm diameter circle and the vessel may be no more than 3 nm from the nearest piece of gear. These requirements allow for active tending, which is a key regulatory requirement for the use of this gear type.

2.3 Gear Deployment/Retrieval

Gear may not be deployed prior to local sunrise and must be onboard the vessel no later than 3 hours after local sunset.

2.4 Use of Multiple Gears on a Single Trip

Gear types other than DSBG may be used on the same trip when DSBG is used, as long as the requirement to actively tend DSBG is met. This requirement will limit the gears with which fishermen could concurrently fish with DSBG and maintain maneuverability to allow for active tending of DSBG and/or staying within the active tending boundary. Other gears could be set and retrieved on the way out to and returning from sea, and DSBG fished in between, potentially at a large distance from the other gear.

All landings must be tagged or marked to identify the gear used. This would facilitate properly attributing catch to the gear type used on a trip. Additional requirements may be necessary so that catch can be accurately recorded by gear configuration on the fish ticket/landings receipt. Any such identification would distinguish between fish caught with SBG versus LBG, as is required on landing receipts.

2.5 Permitting

New gear endorsements would be added to the existing Federal General HMS permit for both SBG and LBG (see gear definitions in section 1.2.1).

2.6 Geographic Area

The fishery would be authorized in all Federal waters offshore California and Oregon.

2.7 Fishery Timing

This fishery may operate throughout the year.

2.8 Species Retention

All species may be retained and landed unless prohibited by other law or regulation.

2.9 Fishery Monitoring

Existing HMS FMP regulations governing observer coverage (50 CFR 660.719) establish a requirement that any HMS-permitted vessel must accommodate a National Marine Fisheries Service (NMFS) certified observer when required by the agency. The level of observer coverage is determined by the agency.

HMS FMP regulations also require logbooks (50 CFR 660.708). NMFS, in consultation with the Council, would need to determine how to implement logbook and data submission requirements for the DSBG fishery. In a future report the HMSMT may provide additional recommendations on logbook data fields specific to the DSBG fishery.

3 Alternative 2: Authorize a Limited Entry Fishery East of 120° 28' 18" W. Longitude (Council's PPA)

This alternative would include all the management measures described above for Alternative 1 and would in addition implement a limited entry (LE) permit, which would be required to fish DSBG in Federal waters east of 120° 28' 18" W. longitude.

3.1 Permit Possession

The HMS LE DSBG permit is held by a person, as defined at 50 CFR 660.702, who must designate a vessel on the permit. The designated vessel need not be owned by the permit holder. The permit holder may change the vessel designation on the permit by written request to NMFS not more than one time per calendar year unless a *force majeure* event renders the assigned vessel incapable of operation. The vessel owner must also hold a General HMS permit. A person may hold multiple permits, multiple permits may designate the same vessel, but only one permit (10 pieces of gear) may be fished from any one vessel at a time. The permit holder would not be required to be onboard the vessel when DSBG is in use.

3.2 Permit Renewal

The HMS LE DSBG permit would be valid for one fishing year and expire if not renewed. Such permits would revert to the issuing Agency and, if a limited entry program is in place, would be made available for reissuance.

3.3 Permit Transfer

HMS LE DSBG permits would not be transferable when the fishery is initially authorized. The Council may take action at some point after the fishery is authorized and the Council determines that transfer would benefit management. The Council may consider allowing permit transfers, and any related conditions, through the biennial management process.

3.4 Number of Limited Entry Permits to be Issued (Fishing Capacity)

A fixed number of permits would be issued. The following options for the number of permits issued will be considered:

1. Not more than 25 permits per year, not to exceed 300 total
2. Not more than 50 permits per year, not to exceed 300 total
3. Not more than 100 permits per year, not to exceed 300 total
4. Not more than 300 permits maximum
5. Up to 50 permits will be issued in the first permit year with up to 25 permits issued annually in subsequent years until either a) a maximum of 300 permits are issued, b) the National Marine Fisheries Service determines less than 300 are necessary to ensure compliance with the Endangered Species Act and Marine Mammal Protection Act, or c) the Council recommends to NMFS that less than 300 permits are necessary to meet stakeholder needs. (Council's PPA)

3.5 Limited Entry Permit Qualification Criteria

Two options are considered for determining who would be eligible to receive a LE DSBG permit. The first option would rank permit applicants based on tiered criteria related to past participation in swordfish fisheries. The second option would rank permit applicants based on their possession of permits for other swordfish fisheries.

3.5.1 Tiered Criteria Option

This option provides an ordered list of qualifying criteria to determine the order of applicants to whom a LE DSBG permit would be issued. Should a tier category include more qualifying individuals than the number of permits that would be issued in a single year, landings would determine the order in which applicants are issued a DSBG permit, giving highest priority within a tier to those individuals with the highest landings. Four options for tiered criteria are presented below, along with the number of permits that would be issued in each tier based on current data.

3.5.1.1 Option 1 (HMSMT Recommendation)

Option 1: HMSMT Nov 2018 Recommendation		Multiple Permits Issued Per Individual	One Permit Issued Per Individual
Ranking Category	Potential Permits	Cumulative Total	Cumulative Total
1. "Active" EFP Recipients* <i>(10 obs DSBG days by *specified date. Council could approve additional EFPs which could qualify)</i>	up to 68	68	68
2. "Active" DGN Permit - Trade-in <i>(1 DGN landing, 2013/14-2017/18 seasons. Up to 5 additional permits may qualify)</i>	up to 34	102	93
3. "Active" Swordfish (harpoon) Permit <i>(Possess 2018/19 permit, 1 HPN landing, 2013/14-2017/18 seasons)</i>	15 plus 10 DGN swordfish permits	127	101
4. "Active" DGN Permit - No Trade-In <i>(1 DGN landing, 2013/14-2017/18 seasons. Up to 5 additional permits may qualify)</i>	34 minus # active trade-in	127	101
5. "Inactive" DGN Permit - Trade-in <i>(No DGN landings since 03/31/2013. Up to 5 additional permits may qualify)</i>	up to 30	157	126
6. "Inactive" DGN Permit - No Trade-In <i>(No DGN landings since 03/31/2013. Up to 5 additional permits may qualify)</i>	30 minus # inactive trade-in	157	126
7. "Inactive" EFP Recipients <i>(>= 1 and <10 obs DSBG days by *specified date. Council could approve additional EFPs which may qualify)</i>	68 - active	157	126
8. "Active" Expired DGN & Swordfish Permits <i>(Expired permits w/ 1 landing, 2013/14-2017/18 seasons)</i>	1 DGN plus 7 HPN	165	130
9. "Inactive" Expired DGN & Swordfish Permits <i>(Expired permits w/ no landings since 03/31/2013)</i>	9 DGN plus 66 HPN	240	198
10. Other West Coast Swordfish Landings <i>(1 landing of swordfish, 2013/14-2017/18 seasons)</i>	35	275	233
11. Other Applicants <i>(First-come, first-serve)</i>	300 minus Cumulative Total	300	300

3.5.1.2 Option 2 (HMSAS Recommendation)

Option 2: HMSAS Nov 2018 Recommendation			One Permit Issued Per Individual
Ranking Category	Potential Permits		Cumulative Total
1. "Active" DGN Permit <i>(1 DGN landing, 2013/14-2017/18 seasons. Up to 5 additional permits may qualify)</i>	34		34
2. "Active" EFP Recipients <i>(Iss. by 12/31/2018, 10 obs DSBG days by *specified date. Council could approve additional EFPs which could qualify)</i>	up to 68		93
3. "Inactive" DGN Permit <i>(No DGN landings since 03/31/2013. Up to 5 additional permits may qualify)</i>	30		108
4. "Active" Swordfish (harpoon) Permit (current) <i>(Possess 2018/19 permit, 1 HPN landing, 2013/14-2017/18 seasons)</i>	15		126
5. Crew Members w/ DSBG Experience <i>(Minimum 1 day DSBG experience before 11/7/2018)</i>	TBD		TBD
6. Other West Coast Swordfish Landings <i>(1 swordfish landing before 11/7/2018)</i>	TBD		TBD
7. Crew members w/ Swordfish Experience (non-DSBG) <i>(Minimum 1 day swordfishing experience, any gear, before 11/7/2018)</i>	TBD		300

3.5.1.3 Option 3 (Pew Public Comment)

Option 3: Pew Public Comment		Multiple Permits Issued Per Individual	One Permit Issued Per Individual*
Ranking Category	Potential Permits	Cumulative Total	Cumulative Total
1. a) "Active" DGN Permit - Trade-in <i>(1 DGN landing, 2013/14-2017/18 seasons. Up to 5 additional permits may qualify)</i>	up to 34	34	*
b) "Active" EFP Recipients <i>(Iss. by 12/31/2018, 30 sets by Final Rule. Up to 27 additional EFPs may qualify)</i>	up to 41 (68 max)	75 (max 102)	*
2. "Active" Swordfish (harpoon) Permit <i>(1 HPN landing, 2013/14-2017/18 seasons)</i>	15		84 (111)
3. "Active" DGN Permit - No Trade-In <i>(1 DGN landing, 2013/14-2017/18 seasons. Up to 5 additional permits may qualify)</i>	34 minus # active trade-in		84 (111)
4. Active EFP Recipients <i>(Iss. after 12/31/2018, 30 sets by Final Rule. Council could approve additional EFPs which could qualify)</i>	TBD		TBD
5. "Inactive" DGN Permit - Trade-In <i>(No DGN landings since 03/31/2013. Up to 5 additional permits may qualify)</i>	Up to 30		TBD
6. "Inactive" DGN Permit - No Trade-In <i>(No DGN landings since 03/31/2013. Up to 5 additional permits may qualify)</i>	30 minus # inactive trade-in		TBD
7. DSBG EFP crew <i>(50 logged days on EFP DSBG vessel)</i>	TBD		Maximum 200

* Active EFP participants who also qualify as active DGN and trade in their permit would be eligible to receive 2 permits

3.5.1.4 Option 4 (Council Preliminary Preferred Alternative)

Option 4: Council Motion - Council's Preliminary Preferred Alternative			One Permit Issued Per Individual
Ranking Category	Potential Permits		Cumulative Total
1. "Active" EFP Recipients <i>(10 obs. Sets by 12/31/2018. Up to 27 additional EFPs may qualify)</i>	up to 41 (68 max)		41 (68)
2. "Active" DGN Permit - Trade-in <i>(1 DGN landing, 2013/14-2017/18 seasons. Up to 5 additional permits may qualify)</i>	up to 34		67 (93)
3. "Active" EFP Recipients <i>(10 obs. Sets by Final Rule. Up to 27 additional EFPs already approved, plus EFPs approved in the future may qualify)</i>	TBD		TBD
4. "Active" Swordfish (harpoon) Permit <i>(Possess 2018/19 permit, 1 HPN landing, 2013/14-2017/18 seasons)</i>	15		TBD
5. "Active" DGN Permit - No Trade-In <i>(1 DGN landing, 2013/14-2017/18 seasons. Up to 5 additional permits may qualify)</i>	34 minus # active trade-in		TBD
6. "Inactive" DGN Permit - Trade-In <i>(No DGN landings since 03/31/2013. Up to 5 additional permits may qualify)</i>	Up to 30		TBD
7. "Inactive" DGN Permit - No Trade-In <i>(No DGN landings since 03/31/2013. Up to 5 additional permits may qualify)</i>	30 minus # inactive trade-in		TBD
8. Demonstrated Swordfish Experience <i>(04/01/2013 - Final Rule)</i>	TBD		TBD
9. Other Applicants <i>(First-come, first-serve)</i>	300 minus Cumulative Total		300

3.6 Permit Possession Option

Qualifying for a LE DSBG permit under this option is based on the possession of a current California permit authorizing landings of swordfish or a Federal DSBG EFP. If there are more qualifying individuals than the number of permits that would be issued in a single year, landings would determine the order in which applicants are issued a DSBG permit, giving highest priority to those individuals with the highest landings.

Alternative 2: Permit Possession

		Multiple Permits Issued Per Individual	
Category	Potential Permits	Total	
DGN, Swordfish (harpoon) or DSBG permit (as of 11/16/2018)	64 DGN + 54 harpoon + 41 EFP	159	

*An additional 5 DGN permits, unlimited swordfish permits, and unknown EFPs (27 already approved by the Council; any future EFPs approved by the Council) could qualify at a later date