

HIGHLY MIGRATORY SPECIES MANAGEMENT TEAM REPORT ON EXEMPTED FISHING PERMITS

At the March 2018 meeting the Council chose to return to the Council Operating Procedure 20 schedule of accepting new exempted fishing permit (EFP) applications at the June meeting of each year. Applications that propose a new gear and/or method would be evaluated during a June and September two-meeting process. Applications to use the currently Council-defined configuration of standard buoy gear (SBG) and/or linked buoy gear (LBG) could still be reviewed and approved in one meeting.

The Highly Migratory Species Management Team (HMSMT) has recommended at past meetings that applications which omitted necessary information, such as the number of days of estimated effort, be given preliminary approval until this information was provided to the Council. The Council has previously recommended that other missing information be provided directly to National Marine Fisheries Service (NMFS) prior to permit issuance instead of bringing it back before the Council. NMFS routinely issues all EFPs with the maximum allowed effort of 100 days per year, regardless of the effort specified in the EFP application. The currently submitted applications are not missing information crucial to evaluating the related EFPs, and therefore the HMSMT recommends that any outstanding information on the applications be verified by NMFS prior to EFP issuance, and that the Council not request applicants to provide updated applications in September.

To date, the Council has recommended SBG applications for approximately 60 vessels to NMFS, and EFPs have been issued for fewer than 30 of these vessels since not all applicants have completed the prerequisites. With an additional 28 vessels applying this round, the number of proposed SBG vessels may exceed the number of vessels for which NMFS' has completed a Section 7 Endangered Species Act (ESA) consultation. The HMSMT suggests that the Council recommend to NMFS that applicants approved at the June 2019 meeting be given priority for EFP issuance over previous applicants who have not yet attempted to meet requirements to obtain their EFP. Further, the Council could recommend that previously approved EFPs that have not been issued by December 31, 2019, become invalid, such that these applicants would need to submit a new application in order to be considered for an EFP.

New Applications for Deep Set Buoy Gear (DSBG) - Attachments 2-16, 18, 19:

The HMSMT reviewed the 18 new applications to test SBG and/or LBG, summarized in [Attachment 1](#). The HMSMT received clarification that Nathan Smith's application (Attachment 5), was erroneously submitted by Nathan Lins who also submitted Attachment 2. With the exception of this erroneous application (Attachment 5), the HMSMT recommends the Council approve all of the applications, with the following caveats:

Regarding Attachments 2 and 12: The second vessel listed on the Lin and Estrada applications is identified as a skiff and should be considered as fishing support equipment for the main vessel, rather than as an additional vessel to receive an EFP and fish a second complement of DSBG.

Regarding Attachment 11: Mr. Stephens already is an authorized operator on both of the vessels under his son's EFPs and does not need to reapply for these two vessels listed in this application. With regards to the third vessel in this application, an EFP should be issued to Mr. Stephens once the necessary information is provided to NMFS.

New Application for Modified DSBG - Attachment 17:

The HMSMT also reviewed and discussed the application submitted by Mr. Nathan Perez and Mr. Thomas Carson to test a modified version of both the SBG and LBG configurations previously approved by the Council for EFP fishing.

The gear configuration in this application differs from previously approved EFPs in that the applicants propose fishing at night, at a depth of around 300 feet. The array of surface buoys has also been modified to include a green light on top of a pool noodle to aid in the monitoring, strike detection, and retrieval of gear at night. Given these differences, the HMSMT recommends that this gear be referred to as night-set buoy gear (linked and standard; NSBG, NSBG-L, NSBG-S) to make a clear distinction between the gear described in this application and DSBG.

At past meetings, the Pflieger Institute of Environmental Research (PIER) included a brief summary of SBG gear trials conducted at night. These sets were fished at a depth of less than 100 ft and resulted in a large proportion of blue shark catch. Due to this high rate of interactions with blue sharks, PIER ceased night fishing with SBG. Mr. Perez and Mr. Carson believe that fishing at a greater depth will increase catch of marketable species, including swordfish during their diurnal migration to and from depth, while greatly reducing the occurrence of non-marketable species interactions.

The HMSMT agrees that this theory is worth allowing a single vessel, operated by a fisherman with several years of DSBG fishing experience under both PIER and his own EFP, to test this new approach.

The HMSMT notes that the use of a green light in the buoy array may be problematic in light of current maritime requirements for nighttime vessel identification, and recommends that the Council and NMFS require the buoy light color be changed to something other than red or green. The pool noodle color does not have to match.

Additionally, 100% observer coverage should be required until enough fishing has occurred to demonstrate that continued observation is no longer necessary. The applicant should be allowed to fish both DSBG and NSBG on the same trip, as long as the day trip does not fall under the required 30% observer coverage, as requiring an observer to monitor both day and night sets is a potential hazard to the observer.

The HMSMT wants to stress that they do not see this application or proposed gear configuration/method as falling under the current DSBG gear which the Council is currently

considering for authorization. This EFP will require its own National Environmental Policy Act analysis and ESA consultation, and if it proves to be effective and have a low rate of protected species interactions, could be a separate consideration and action by the Council at a later date. The Council's current preliminary preferred alternative for DSBG only authorizes fishing during the day ([Agenda Item J.6, Attachment 1](#)).

HMSMT Recommendations to the Council:

- Approve 17 new DSBG applications at this meeting - all but attachment 5 (duplicate application).
- Recommend that NMFS prioritize issuance of these EFPs over previously approved applications, with the understanding that NMFS may be limited in its ability to issue all new LBG EFPs until an ESA consultation is complete that would account for fishing effort by more than 15 LBG vessels.
- Preliminarily approve the Perez/Carson EFP to fish both standard and linked configurations of NSBG under 100% observer coverage, and consider final recommendation at the September 2019 meeting.
- Request for NMFS to extend currently active EFPs through 2020 and to consider any previously Council-approved EFPs that have not been issued by December 31, 2019, as invalid.

PFMC
06/24/19