

**HIGHLY MIGRATORY SPECIES MANAGEMENT TEAM REPORT ON
 DEEP-SET BUOY GEAR AUTHORIZATION: FPA**

The Highly Migratory Species Management Team (HMSMT) continued discussion of the Council’s Range of Alternatives (ROA) for authorization of deep-set buoy gear (DSBG). While updated biological and economic analyses are provided in the [NMFS Report 1](#), updated spatial and permit considerations in the HMSMT’s September 2019 [Supplemental Report 1](#), and Magnuson-Stevens Act (MSA) 303(b)(6) considerations in [Supplemental Report 2](#), there are additional considerations the HMSMT wishes to highlight for the Council prior to the adoption of a Final Preferred Alternative (FPA).

Permit Issuance Clarification

The HMSMT would like to clarify two components of DSBG limited entry (LE) permit issuance. First, it is the HMSMT’s understanding that in the Council’s Preliminary Preferred Alternative (PPA), the issuance of “up to 25 permits a year” is intended as “25 additional permits” issued each year (see Table 1 for a cumulative number of DSBG LE permits issued per year), without regard to permits that are not renewed. For example, this would mean that if after year 1 during which 50 permits were issued, should five permits not be renewed for the following year, National Marine Fisheries Service (NMFS) could then issue 30 additional permits for a cumulative total of 75 permits in year 2. This is consistent with permit issuance language in the ROA that states, “The HMS LE DSBG permit would be valid for one year and expire if not renewed. Such permits would revert to the issuing Agency and, if an LE program is in place, would be made available for reissuance.” The HMSMT considers the Council’s intent to be to grow the size of the fleet by 25 permits a year in order to potentially obtain the maximum fleet size within 12 years.

Table 1. Cumulative number of DSBG LE permits issued if 25 permits are issued in each subsequent year after year 1 up to the maximum number of 300 in the Council’s PPA.

Year	Cumulative Number of Permits Issued
1	50
2	75
3	100
4	125
5	150
6	175
7	200
8	225
9	250
10	275
11	300

Second, the HMSMT does not anticipate that the Council will discuss and determine the number of permits to be issued each year. Under the Council’s PPA, NMFS could issue up to 25 additional permits annually without the Council recommending to NMFS a new number each year. The

HMSMT feels that evaluating the annual number of permits to issue would be redundant to work already done in developing the ROA and would create a burdensome workload, preventing timely issuance of the maximum number of permits.

Additional Considerations

Discussion with the Highly Migratory Species Advisory Subpanel and members of the public highlighted the benefit of a LE permit approach in authorizing DSBG, as well as the potential need to pause permit issuance to address temporary issues that may arise with the developing fleet. The HMSMT is concerned that the current PPA does not allow for a pause in permit issuance. As stated, permits would be issued each year until 300 permits are issued or NMFS or the Council find that fewer than 300 permits is warranted. The HMSMT recommends that the Council confirm that the ROA would allow either NMFS or the Council to evaluate a temporary stop in permit issuance (e.g., for a single year), and resume issuing permits at a later date. In the future, the Council would need to develop criteria for determining that permit issuance should stop or pause before 300 permits are issued, to provide a strong basis for making such a recommendation to NMFS.

The HMSMT believes that an open access fishery in the Southern California Bight (SCB) is unlikely to result in a large DSBG fleet because the gear is artisanal in nature and open access would discourage speculative permit possession. It is likely that the Council's consideration of LE is in fact largely driving speculative interest in the gear, similar to the case of DSBG exempted fishing permits (EFPs).

Many aspects related to the authorization and permitting of a DSBG fleet remain uncertain or unknown at this time. The Council, its advisory bodies, and members of the public have expressed concern over several of these considerations, including the available area within the SCB to productively fish DSBG, and the resulting economics. The HMSMT heard testimony from Dr. Chugey Sepulveda regarding swordfish aggregations near certain bathymetric features. Based on the historic swordfish effort distribution of West Coast fleets, the temporal clustering of fish over limited areas is probable and DSBG fishing would likely not be distributed across all open waters in the SCB. As seen in the maps provided in [Supplemental Report 1](#), DSBG EFP sets fished to date tend to concentrate in some of these areas, especially around the Channel Islands or mainland. In contrast, there is minimal effort in other open water areas. At this time, there are no available fine-scale data on the aggregating behavior of swordfish in the Southern California Bight, so the HMSMT could not incorporate anything definitive in its analyses. Due to potential aggregation, the available area within the SCB for productive swordfishing may be additionally limited. The management of available permits through phased-in issuance can allow for a more proactive approach to potential crowding issues.

Due to lack of comprehensive data, HMSMT spatial analyses are also unable to accurately characterize the recreational fishing effort which may spatially interact with commercial DSBG fishing effort in the SCB. Much of the information is anecdotal and cannot be confirmed, but it is generally acknowledged that there is potential for negative interactions between DSBG and recreational fishermen. This supports the HMSMT's recommendation that the Council adopt the phased-in LE approach to address potential issues as they arise and clarifying language to allow for a pause in permit issuance if needed.

Proposed Revision to Preliminary Preferred Alternative

The Council’s ROA was developed prior to the adoption and implementation of California State Senate Bill SB1017. At the time, the Council proposed using participation in a trade-in (or buy-back) program as a way to encourage individuals participating in the drift gillnet (DGN) fishery to transition to DSBG, ranking those who participated in a trade-in program at a higher level for permit issuance than those who did not. While the HMSMT’s original recommendation for qualifying criteria tiers (sub-option 1) included this differentiation among DGN permit holders, the implementation of SB1017 changes the parameters of the swordfish fishery and the need or efficacy of using participation in a trade-in program as a qualifying criterion for issuing DSBG LE permits. The HMSMT recommends the Council modify its LE permit qualifying criteria PPA so that the second tier for permit issuance includes all active DGN permit holders, regardless of participation in a permit trade-in program. If all California DGN permits will be invalid as soon as four years, the DGN participants, as well as the markets that rely on that fishery for swordfish, will need another method by which to supply fish to the markets. While the HMSMT does not believe that DSBG is a replacement for DGN-caught swordfish, disadvantaging DGN participants who want to continue to fish DGN while able, by postponing the issuance of a DSBG permit, is in contradiction to the Council’s stated desire to optimize use of the stock and the purpose of authorizing DSBG.

The HMSMT discussed the potential negative economic impact of using participation in such a program in determining eligibility to obtain a DSBG permit. Transitioning to DSBG requires a substantial investment in gear and the development of new fishing skills, and has thus far shown mixed success as a reliable source of swordfish landings and revenues production. Fishermen need the ability to utilize multiple methods to catch swordfish in order to respond to environmental factors, swordfish availability, and market demand. The permit trade-in provision would create the risk of reduced employment and production in the West Coast swordfish fishery in case fishermen with historic reliance on DGN do not find DSBG fishing to be economically viable.

Sub-Option 6: Modified 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)</i>	20		20
2. "Active" DGN Permit <i>(1 DGN landing, 2013/14-2017/18 seasons)</i>	29		43
3. "Active" EFP Recipients <i>(10 obs. Sets by Final Rule. Up to 77 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>	17		TBD
5. "Inactive" DGN Permit <i>(No DGN landings since 03/31/2013)</i>	37		TBD
6. Demonstrated Swordfish Experience <i>(04/01/2013 - Final Rule)</i>	TBD		TBD
7. Other Applicants <i>(First-come, first-serve)</i>	300 minus Cumulative Total		300

HMSMT Recommendations

1. Provide clarification on the following permit issuance components:
 - Additional permit issuance adds 25 potential permits per year after year 1, without regard to permits that are not renewed (i.e., 50 total the first year, 75 total the second year, 100 total the third year, etc.)
 - The potential number of additional permits issued by NMFS each year will automatically be up to 25 and the Council will not reconsider/decide on a number each year
2. If the Council's FPA indicates that NMFS or the Council may halt DSBG LE permit issuance before 300 permits are issued should concerns arise, confirm that it allows for a pause in issuance of new permits as an alternative to a permanent halt
3. Revise the PPA for LE permit qualifying criteria by removing the DGN trade-in component from the tiers
4. Authorize DSBG as a legal gear-type under the HMS FMP
5. Adopt the PPA for LE permit issuance, with the revised qualifying criteria tiers (sub-option 6, above), as the Council's FPA for LE permit qualifying criteria

PFMC
09/16/19