

DRIFT GILLNET FISHERY HARD CAPS UPDATE

The Pacific Fishery Management Council (Council) took final action in September 2015 on a proposal that included “hard caps” for selected protected species taken in the California/Oregon thresher shark/swordfish large mesh drift gillnet (DGN) fishery. Under this proposal, the fishery would immediately close if a hard cap (i.e., limit) on mortality/injury were met or exceeded for certain protected species during a rolling 2-year period. The final rule implementing this action was published February 7, 2020 with an effective date of March 9, 2020 ([85 FR 7246](#)). This rulemaking has a long history involving withdrawal of the proposed rule by National Marine Fisheries Service (NMFS) and subsequent litigation precipitating the issuance of the final rule, as described in the situation summary for [Agenda Item I.4, March 2020](#). In a [June 9, 2017 letter](#), NMFS notified the Council it had withdrawn the proposed rule, outlined the reasons for its action, and solicited modifications to the Council proposal to avoid “significant economic effects such as those that are expected during a fishery closure of one or more fishing seasons.” Such a revised proposal could, for example, include “reduced time/area closures.”

NMFS was unable to consult with the Council on potential modifications before the court-ordered publication of the final rule implementing the regulations. After the March 2020 briefing on the rulemaking, the Council requested NMFS return at a subsequent meeting to report on comments received on the final rule implementing hard caps, the details of the economic analysis that was the basis for withdrawing the proposed rule, and a range of viable measures the Council could consider in a future rulemaking process. At this meeting NMFS is prepared to brief the Council on these items.

NMFS plans to submit a supplemental report responding to the Council request.

Council Action:

Review NMFS Report on the Response to Comments on the Final Rule and a Range of Viable Rulemaking Measures for Council Consideration.

Reference Materials:

1. *Agenda Item I.4.a, Supplemental NMFS Report 1.*
2. If received, Public Comments are electronic only ([see e-portal](#)).

Agenda Order:

- I.4 Drift Gillnet Fishery Hard Caps Update Kit Dahl
- a. Reports and Comments of Management Entities and Advisory Bodies
 - b. Public Comment
 - c. **Council Action:** Review NMFS Report on the Response to Comments on the Final Rule and a Range of Viable Rulemaking Measures for Council Consideration