

HIGHLY MIGRATORY SPECIES MANAGEMENT TEAM REPORT ON DRIFT GILLNET FISHERY HARD CAPS UPDATE

The Highly Migratory Species Management Team (HMSMT) considered the National Marine Fisheries Service (NMFS) report on large-mesh drift gillnet (DGN) hard caps and notes that in February 2020, [NMFS implemented hard caps](#), as originally adopted by the Council in June of 2015, as a result of a court ruling. Due to NMFS' determination that there would be significant negative economic impacts to fishery participants should a cap be reached, the Council must decide whether to revisit this regulation. If the Council moves forward, it should consider its conservation intention, and the potential negative impact to the fishery from the hard cap regulations.

In a joint discussion session, the Highly Migratory Species Advisory Subpanel (HMSAS) and the HMSMT identified numerous unpredictable factors that may affect the future state of the fishery including the California SB 1017 buyback program, unsettled litigation with both state and Federal agencies, and a pending Federal bill to ban DGN. While resolving these factors could provide clarity on baseline conditions in the fishery, the HMSMT does not view a lack of their resolution as a reason for the Council to postpone considering revisions to the current hard cap regulations. From a conservation perspective, there may be little urgency to revisit this agenda item so long as the current regulations remain in effect. But for participants in the fishery, as long as the hard caps remain in place, there is the possibility that they will undergo significant financial hardship should a two-season closure be implemented.

The HMSMT supports the NMFS recommendation for the Council to review and modify its Purpose and Need statement to better reflect its stated intent for the action. One such example is aiming to incentivize bycatch avoidance behavior. The HMSMT could provide other suggestions to the Council for refining the statement of Purpose and Need, as well as action alternatives, at a future meeting.

Discussion also encompassed the potential for a court ruling in favor of industry's request to vacate the hard caps rule. Should this occur, the HMSMT recommends that the Council establish appropriate caps for marine turtle species, as there are no current take limits for turtles in the DGN fishery. However, the Council should not consider hard caps for marine mammals, as this bycatch is currently managed under the Marine Mammal Protection Act by the Pacific Offshore Cetacean Take Reduction Team. These recommendations are also supported by the HMSAS.

The HMSMT would like to remind the Council that the decision to modify the hard caps action cannot be postponed indefinitely. Therefore, the HMSMT recommends that the Council schedule the hard caps item for the June 2021 meeting along with the HMSMT's annual DGN bycatch performance metrics report. This may allow for resolution of some of the previously mentioned factors affecting the fishery, while giving timely consideration to industry concerns. In addition, the HMSMT could work with the HMSAS to develop a range of alternatives for reducing the potential negative economic impacts to the fishery while still addressing its conservation goals. Such alternatives could include changes to area and/or time closures, incentives for accountability through individual caps, or other approaches.