



**UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration**

NATIONAL MARINE FISHERIES SERVICE  
West Coast Region  
1201 NE Lloyd Boulevard, Suite 1100  
PORTLAND, OREGON 97232-1274

Agenda Item H.4  
Attachment 4  
March 2021

**HIGHLY MIGRATORY SPECIES (HMS) FISHERY  
EXEMPTED FISHING PERMIT (EFP)**

AUTHORITY: Title 50, Code of Federal Regulations Sections 600.745 and 660.718

F/V vessel name      vessel number    authorized operator

The Regional Administrator of the West Coast Region of the National Marine Fisheries Service (NMFS), acting on behalf of the Secretary of Commerce, hereby permits the fishing vessel named above to fish for Pacific swordfish using linked and standard deep-set buoy gear under the Magnuson-Stevens Fishery Conservation and Management Act, 16 United States Code §§ 1801 et seq. (Magnuson-Stevens Act), and regulations at Subpart K of 50 CFR Part 660 and 50 CFR 600.745. The fishing must be conducted in accordance with the attached terms and conditions applicable to the EFP holder and the fishing vessel fishing under this EFP.

Activities outside the scope of your EFP that are in violation of applicable regulations may be subject to sanctions. This EFP provides exemption only from the regulation prohibiting the use of unauthorized gear to fish for HMS in the U.S. Exclusive Economic Zone off the Pacific coast (50 CFR 660.705). This EFP allows the listed commercial fishing vessel to fish standard deep-set buoy gear to harvest swordfish and other marketable HMS species.

This EFP is valid when signed by the NMFS West Coast Regional Administrator, the authorized representative of the EFP vessel owner, and an authorized representative of the Applicant/Principal Investigator (hereinafter referred to as the "EFP holders"). **This EFP expires 24 hours after notification by the NMFS West Coast Regional Administrator of termination of the EFP or December 31, 2019, whichever is earlier.** It also may be terminated or modified earlier by regulatory action pursuant to 50 CFR Part 660, or by revocation, suspension, or modification pursuant to 15 CFR Part 904 or by the terms and conditions of this EFP. In order to facilitate identification of your activities as exempted fishing, you must carry a copy of your EFP on board all vessels while conducting fishing activities.

Date Signed

\_\_\_\_\_  
Regional Administrator, West Coast Region  
National Marine Fisheries Service

\_\_\_\_\_  
Signature  
EFP Holder (Authorized Representative of the  
EFP)

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Signature  
EFP Holder (Authorized Representative of HMS Vessel Owner)

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Print EFP Holder Name

\_\_\_\_\_  
Print EFP Holder Name

By signing this document, the EFP holder agrees that the EFP holder, the vessel owner(s), all vessel operators, and crew members of the vessel understand and will comply with the terms and conditions of this EFP.

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Administrative File:  
150413WCR2015SF00141:CSF



## Terms and Conditions Applicable to Deep-set Linked Buoy Gear (DSLBG) Exempted Fishing Permits (EFPs) for Highly Migratory Species (HMS) – 2018 - 2019

### A. SCOPE

1. These terms and conditions apply to all fishing activities under DSLBG EFPs for the years 2018-2019, which authorize the use of DSLBG as well as standard (non-linked) Deep-set Buoy Gear (DSBG). **In addition to all of the terms and conditions in this document, the EFP holder is responsible for instructing all fishing permit holders, vessel owners, vessel operators, crew members and processors concerning the terms and conditions of the EFP permits.**
2. The EFPs exempt the permitted vessels, for limited purposes described in these terms and conditions, from the prohibition on unauthorized gear, which would otherwise be prohibited by 50 CFR 660.705(a) and (c), provided the vessels use DSBG as specified in these terms and conditions.
3. **Jointly and Severally Liable.** The EFP holder will be jointly and severally liable for compliance with the terms and conditions of this EFP by each vessel and for all persons aboard the vessel while participating in the EFP project. A representative who has signed the EFP assumes responsibility on matters related to issuance and management of the EFP, including serving as the EFP holder.
4. All other provisions of 50 CFR Part 660, Subpart K, and other applicable laws of the states of California, Oregon, and Washington that relate to fishing for, landing, and processing of Pacific swordfish and other marketable HMS apply to fishing activities conducted under this EFP.
5. Failure to comply with these terms and conditions will be grounds for revocation, suspension, invalidation, or modification of the EFP with respect to all parties, persons, vessels, and processors conducting activities under the EFPs referenced above.

### B. EFFECTIVE DATES

1. These terms and conditions are effective when the National Marine Fisheries Service (NMFS) West Coast (WC) Regional Administrator, the EFP holder, and/or the authorized representative of the HMS permit owner sign the EFP. If the NMFS WC Regional Administrator and the EFP holders sign the EFP on different dates, then the effective date is the latter of the three signature dates.

The EFP will be effective only through December 31, 2019, and may be terminated or modified at an earlier date by NMFS.



2. The EFP may be terminated or modified before December 31, 2019, by regulatory action pursuant to 50 CFR Part 660, Subpart K or by revocation, suspension, or modification pursuant to 15 CFR Part 904, or successor regulations, or by the terms and conditions of this permit.

C. PERMIT CONDITIONS

1. The exemption provided by this EFP is valid only for the vessels and operator(s) listed on the EFP. A listed operator must be on board the listed vessel during all EFP fishing trips.

The vessel(s) and operator(s) for which issued permits are:

<u>Vessel Name</u>	<u>USCG #</u>	<u>EFP Name</u>	<u>Second Operator(s)</u>
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2. All EFP fishing trips by the permitted vessel must be conducted in accordance with the permit and associated terms and conditions and are limited to federal waters only.
3. This EFP is not transferrable to another holder, entity, vessel, or vessel owner.
4. A copy of the EFP must be carried on board the vessel while conducting fishing activities under this EFP and whenever fish caught while fishing under the EFP are on board the vessel.
5. The original EFP permits with original EFP holder signatures must be returned to the following address upon expiration, revocation, or suspension:  
 West Coast Region (WCR)  
 National Marine Fisheries Service  
 Sustainable Fisheries Division  
 501 West Ocean Blvd. #4200  
 Long Beach, CA 92841

D. OBSERVER REQUIREMENTS

1. The EFP holder and vessel operator are responsible for ensuring placement of NMFS-trained observers on board participating vessels. Each vessel must have 100 percent observer coverage for the first year. For subsequent trips, observer coverage levels will be determined by NMFS and will be at least 30 percent of DSBG fishing days in 2019. If no fishing occurs in 2018, then observer coverage in 2019 will be at 100 percent. Observer coverage rates shall be monitored over the fishing year by the EFP holder. Information in the preliminary and final reports for each fishing year shall be the basis for calculating the overall observer coverage level.
2. The EFP holder and vessel operator must allow observers to collect all data elements on the forms as specified by NMFS WCR.

3. Requirements for observers found at 50 CFR 660.719 apply to fishing under this EFP. This includes a condition that vessels unable to accommodate observers with a sleeping bunk will be limited to day trips when assigned an observer.

#### E. FISHING RESTRICTIONS

In accordance with 50 CFR 600.10, “Fishing, or to fish” means any activity, other than scientific research conducted by a scientific research vessel that involves:

- (1) the catching, taking, or harvesting of fish;
- (2) the attempted catching, taking, or harvesting of fish;
- (3) any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or
- (4) any operations at sea in support of, or in preparation for, any activity described in paragraphs (1), (2), or (3) of this definition.

1. Fishing is prohibited in waters north of the Washington/Oregon marine border, a line extending seaward off the coast at 46 degrees 15 minutes N. latitude. For EFPs fishing using DSLBG, no fishing is allowed in waters shallower than the 400 meter (m) depth contour north of the Northern Channel Islands to the Oregon/Washington border.
2. Fishing is limited to federal waters during the day between sunrise (local time) and sunset<sup>1</sup> (local time). All vessels may not set gear prior to sunrise and must initiate haul-back procedures by sunset. All DSBG (standard and linked) must be removed from the water no later than three hours after sunset local time. All DSBG (standard and linked) may not be modified in any way to fish shallow (hooks at less than 90 m deep) and may not be fished at night.
3. No fish may be transferred to or from the vessel operating under this permit. Fish caught by other authorized HMS gears (e.g., harpoon, drift gillnet) on the same vessel must be kept separate and distinct for reporting and landing receipts. Each vessel shall only retain fish caught on gear it has deployed, tended, and retrieved.
4. This EFP may be used to fish up to 100 days per year per vessel with a maximum total of 10 pieces or sections combined of linked and standard gear per vessel deployed simultaneously per day.
5. A single piece of standard DSBG may contain no more than a single weighted line with up to three hooks. A single section of DSLBG may contain no more than three hooks, up to a maximum of 30 hooks total. The gear may be soaked for no more than eight continuous hours each day. A full complement of ten pieces of DSBG (including all vertical lines whether standard or linked) may contain no more than 30 hooks. A combination of single pieces of standard DSBG and linked sections of DSLBG may contain a maximum of 30 hooks.
6. All hooks must be deployed below the mixed layer (>90 m) with a maximum of 3 hooks to target swordfish and other marketable HMS at depths of 250 – 400 m (for

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<sup>1</sup> For the purpose of this section, sundown is defined as the time at which the upper edge of the sun disappears below the horizon or, if the view of the sun is obscured, the local time of sunset calculated from tables developed by the U.S. Naval Observatory or other authoritative source approved by the Regional Administrator, West Coast Region.

standard DSBG, one hook may be placed at greater than 90 m depth, and up to 2 hooks may be placed at depths of 250 – 400 m). Each set will use only 16/0 or 18/0 circle hooks with no more than 10 degree offset, using only squid or mackerel bait, or artificial baits.

7. The surface flotation system will consist of a minimum of three buoys. The surface buoy flotation and strike detection array must be a streamlined inline configuration, with no loops or hanging material, and no more than 6 feet between adjacent buoys, to reduce entanglement potential. The surface buoy flotation and strike detection array will consist of a >40lb non-compressible hard ball, a minimum six pound inline-float, and a sub-surface inline-float, all connected in-line with a minimum of 3/8 inch diameter line, and no more than six feet between adjacent buoys. Use of buoy tether attachments (e.g., non-streamlined gear with loops, nooks, and dangling components) will be prohibited.
8. Each piece of deep-set buoy gear must be equipped with a flag, radar reflector, and strobe. Both the flags and buoys must be marked with the vessel's official number.
9. For DSLBG, the "serviceable link" that connects the linked buoy gear sections is required to have a minimum of 50 foot (15.25 m) drop length.
10. Each vertical line must use a minimum of a 3.6 kilogram lead weights to minimize slack in the line and maintain the gear in a vertical orientation. Strike indicator floats will be used to detect 'hook-up' and allow for the immediate gear servicing upon a 'strike.' A 'strike' is when a fish or other animal has taken the baited hook, and a 'hook-up' is when the fish or animal is attached to the line via the hook. Line shooters must also be used when deploying DSLBG. Monofilament mainline size for DSLBG shall be limited to a maximum of 3.2 millimeters with 600-800 pounds breaking strength.
11. All gear must be deployed as quickly as practicable and the vessel must be proximal to the gear at all times (<3 nautical miles (nm)) to meet "active tending" requirements (as set forth in condition 11 below) for the purpose of minimizing impacts to any non-target species.
12. The operator of the fishing vessel must actively tend all gear at all times, and must maintain the gear within sight (<3 nm from any one piece of gear) of the EFP participant's fishing vessel. The total spatial distribution of all pieces of gear is not to exceed a 5 nm diameter footprint, with the closest piece of gear being no more than 3 nm from the vessel.

## F. REPORTING REQUIREMENTS

It is unlawful to fail to report catches as required while fishing pursuant to an EFP (50 CFR 600.725(1)). Failure to maintain the required documents may result in a vessel's and/or EFP holder's inability to obtain a future EFP permit.

### 1. Fishing Activity Reports and Log Sheets

24 hours prior to commencing a fishing trip during which EFP activity is expected to be conducted, notice of vessel name, anticipated fishing dates, port of departure, and expected landing port must be made via email to the NMFS WCR primary contact, Chris Fanning, listed below, and if departed or landed to a California port, to the

California Department of Fish and Wildlife (CDFW) primary contacts listed below. Within 24 hours of port landing and cessation of any EFP fishing trips, notice of vessel name and EFP fishing dates must be made via email to the NMFS WCR primary contact, Chris Fanning, listed below, and if departed or landed to a California port, to CDFW primary contacts listed below.

48 hours advanced notice of departure must be made to the observer provider in accordance with guidelines provided by the NMFS WCR Observer Program contact.

For all trips, whether or not an observer is on board, the log sheets must be filled out within or during the current calendar day for all fishing days, and copies of all log sheets must be submitted to the specified NMFS WCR Observer Program contact within 7 days of landing.

## 2. Landings Reports

All fish tickets must have “DSBG EFP” or “DSLBG EFP” written in the notepad area of the landing receipt to assist reviewing biologists, and allow proper EFP coding into the landings databases to indicate that the fish were caught under this DSBG EFP. The correct gear codes (e.g., CDFW code 83 for Standard Buoy Gear, 84 for DSLBG) must be used on the landing receipt. Fish caught by other authorized HMS gears must be kept separate in the vessel hold and reported separately on landing receipts using the correct gear codes (e.g., CDFW code 12 for harpoon, 63 for large-mesh drift gillnet).

Within 7 days of landing fish caught with DSBG, a photocopy or image of the fish ticket must be sent via email to the NMFS WCR primary contact, Chris Fanning, listed below. All landing receipts must still be submitted to the state of landing in accordance with state requirements.

## 3. Annual Preliminary and Final Reports

The EFP holder must present a preliminary report on the results of the EFP and the data collected (including catch data) to NMFS WCR by May 1, 2018, and May 1, 2019, in advance of the Briefing Book deadline for the June 2018 and 2019 meetings of the Pacific Fishery Management Council (Council).

A final written report on the results of the EFP and the data collected must be presented by the EFP holder to NMFS WCR, the Council, and the Council’s HMS Management Team at the September 2020 Council meeting in the year following fishing under the EFP.

The final report must include:

- a. a summary of the work completed, including observer coverage rate and distribution of observer coverage across all participant fishing vessels;
- b. an analysis of the data collected; and
- c. conclusions and/or recommendations.

## 4. Public Release of Information

The fishing activities carried out under the EFP are for the purpose of collecting information. The vessel owner, operator, and EFP holder agree to the public release of any and all information submitted to NMFS, Oregon Department of Fish and Wildlife, or CDFW pertaining to activities conducted under the EFP.

## G. PROTECTED SPECIES INTERACTIONS

1. All vessel operators shall undergo a safe handling and release workshop conducted by the NMFS WCR Protected Resources Division prior to beginning fishing under the EFP. Scheduled dates of workshops offered are available by contacting the primary NMFS WCR contact, Chris Fanning, listed below.
2. If any species listed as endangered or threatened under the Endangered Species Act (ESA) is entangled or hooked by DSBG (standard or linked), the EFP permit holder must report the species and its release condition to the NMFS WCR point of contact for ESA-listed species interactions, Justin Viezbicke (listed below) within 24 hours after the EFP trip.
3. If a single ESA-listed species is entangled or hooked while fishing under the EFP, then the vessel directly responsible for the take will immediately cease fishing; and any other vessel fishing under the EFP will cease fishing immediately after being notified by NMFS that a take has occurred. Fishing may resume only after NMFS WCR grants authorization to resume fishing.

## H. SANCTIONS

Failure of the vessel owner, operator, EFP holder, or any person to comply with the terms and conditions of this permit, a notice issued under 50 CFR Part 660, Subpart K, any other applicable provision of 50 CFR Parts 600 and 660 Subpart K, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 *et seq.*) (Magnuson-Stevens Act), or any other regulations promulgated thereunder, may be grounds for revocation, suspension, or modification of this EFP as well as civil or criminal penalties under the Magnuson-Stevens Act with respect to all persons and vessels conducting activities under the EFP (50 CFR 600.745(b)(9)).

## I. WAIVER

The EFP holder on his/her own behalf, and on behalf of all persons conducting activities authorized by the permit under his/her direction, waives any and all claims against the United States or the State, and its agents and employees, for any liability whatsoever for personal injury or death related to fishing under the EFP.

## J. PRIMARY CONTACT INFORMATION

### NMFS West Coast Region Observer Program

Name: Charles Villafana  
Email: Charles.Villafana@noaa.gov  
Phone: 562-980-4033

### NMFS West Coast Region

Name: Chris Fanning

Email: Chris.Fanning@noaa.gov  
Phone: 562-980-4198

For ESA-listed species interactions:  
Name: Justin Viezbicke  
Email: Justin.Viezbicke @noaa.gov  
Phone: (562) 506-4315

California Department of Fish and Wildlife

Name: CDFW LED Marine Notifications  
Email: LEDMarineNotificaions@wildlife.ca.gov

NOAA Office for Law Enforcement:

Name: Lt. Brian Christy, Supervisory Enforcement Officer  
Email: Brian.Christy@noaa.gov

Name: Ho Truong, Assistant Special Agent In-Charge  
Email: Ho.Truong@noaa.gov  
Phone: 562-980-4050

Administrative File:  
150413WCR2015SF00141:CSF