

ENFORCEMENT CONSULTANTS REPORT ON POSSIBLE PROPOSED DRIFT GILL NET FISHERY HARD CAPS

The Enforcement Consultants (EC) have reviewed the documents pertaining to Agenda Item F.5, Drift Gill Net Fishery Hard Caps, and have the following comments. The EC supports the Council's efforts "to conserve non-target species and further reduce bycatch, including incidental take of ESA-listed species and marine mammals, in the DGN fishery below levels currently permitted by applicable law while maintaining or enhancing an economically viable west-coast based swordfish fishery."

Hard Caps: Hard caps are based on the acceptable levels of incidental take of these species. Proposed measures include individual hard caps on a vessel-to-vessel basis, hard cap measures enforced on a fleet wide basis, and a combination of individual and fleet-wide hard caps as a whole. Managing agencies depend on the accurate reporting of the take of hard caps species. The hard caps currently in place are based on data from NMFS observers or a NMFS Electronic Monitoring program. The EC is concerned about the accuracy of data if the data are also based upon self-reported take because the motivation(s) for misreporting are exceptionally high when a take may trigger a hard cap. The history of accurate self-reporting has not been completely reliable. For example, the EC noted two recently adjudicated enforcement cases involving DGN vessels where the operators failed to report the take of marine mammals and only admitted to the take after being presented with video evidence. Neither of these vessels was required to carry an observer.

Observers and Electronic Monitoring (EM): The EC recommends that any proposed hard cap regulations imposed on the DGN fleet require 100 percent participation of an observer program, electronic monitoring, or a combination of the two, depending on the language the Council adopts for hard cap-based management actions.