

ENFORCEMENT CONSULTANTS REPORT ON DRIFT GILLNET FISHERY HARD CAPS

The Enforcement Consultants (EC) have reviewed the documents pertaining to Agenda Item H.3, Drift Gill Net Fishery Hard Caps Range of Alternatives. The EC supports the Pacific Fishery Management Council's (Council's) efforts to evaluate regulations to minimize bycatch of non-target species taken in the California/Oregon thresher shark/swordfish large mesh drift gillnet (DGN) fishery. The EC has reviewed H.3.a, HMSMT Report 1 and has the following comments:

Hard Cap Reporting. The EC recommends that hard-cap take reports only be based on "observed" takes from observer reports. The EC also recommends consideration of 100 percent observer coverage, if all observed and reported mortality/injury of the listed species are to be applied to the hard caps. As we stated in our June 2021 Supplemental EC Report 1 to Agenda Item F.5.a, the EC is concerned about the accuracy of data if some data are based on self-reported take because the motivations for misreporting are exceptionally high when a take may trigger a hard cap closure. 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.

Alternative 1 (No Action): no additional concern.

Alternative 2 (Council 2015 Final Preferred Alternative): no additional concern.

Alternative 3 (Annual Fleet-wide Hard Cap Closures). The EC prefers a fleet-wide closure upon reaching a hard cap, rather than individual vessel closures, due to challenges in tracking activities of a subset of a fishing fleet. Closures of fewer than 30 days would be difficult to enforce. Additional aircraft overflights of the fishing grounds would need to be scheduled and weather would need to be conducive, which can be challenging with the all too common marine layer hampering visibility from the air. Options 1, 4 and 5 are not recommended for consideration due to the short duration of the closure.

Alternative 4 (Individual Vessel and Fleet-wide Hard Cap Closures): Individual vessel hard cap closures are more difficult to monitor and enforce. Vessel Monitoring System is effective for monitoring closed areas and fleets of vessels, but less effective as a tool to monitor a subset of vessels. The EC also recommends clearly identifying which vessels are considered "unobserved" (e.g., no observer at time of cap being reached, not selected for an observer up to that point in the fishing season, vessels with/without waiver and not currently carrying an observer, etc). This category must be clearly defined if individual vessel closures apply to both the vessel involved in the take and "unobserved" vessels. The EC is also concerned about the enforceability of those options with proposed closures of fewer than 30 days. Additional aircraft overflights verifying gear removal are also less effective when the closure only applies to a portion of the fleet. Options 1, 2 and 4 are not recommended for consideration due to the short duration of the closure.