

HIGHLY MIGRATORY SPECIES ADVISORY SUBPANEL (HMSAS) REPORT ON DRIFT GILLNET FISHERY HARD CAPS

The HMSAS deeply appreciates the exhausting and monumental task undertaken by Drs. Stephen Stohs and Kit Dahl in preparation for the draft preview on hard caps. In our [June 2022 statement](#) to you we indicated an intent to “provide further views on the alternatives after the completion of the analysis of Alternative 3.”

The purpose and need statement, which in part states “to incentivize fishery behavior,” creates a false sense that fisherman can avoid something they cannot see and may be 100 miles away at the time the gear is deployed. Since the Council last took action on hard caps, the drift gillnet (DGN) fishery has undergone significant changes. The California buy-back program, which concluded last week, leaves twenty-six permits in the fleet. In 2015 there were roughly twenty vessels active in the fishery, today that number may be as low as two or as high as eight.

Interactions with protected species with the fleet have always been a rare event. With fewer boats it becomes even rarer. The Initial Public Review Draft Environmental Assessment (EA), based on assumptions incorporated in the analysis, found that most of the alternatives considered provide negligible to modest beneficial impact/benefit for protected species. While the economic impacts are more capable of being quantified, there are questions surrounding the ability to estimate conservation benefits. The draft EA analysis relies on an important assumption that the fleet will not change its behavior as a result of hard caps, and this impacts the projection of potential conservation benefits of Alternative 2 and Alternative 3. Alternative 3 provides a direct incentive, in the form of a penalty, to individual vessels to avoid interaction with protected species. The likely economic impacts can be more directly calculated, and the analysis indicates that there will be economic impacts from Alternative 2 and Alternative 3.

Alternative 2 provides the most protection for High Priority Protected Species but will result in the greatest economic harm to the fleet and dependent fishing community. Today, the DGN fleet has been minimized to such a degree that basically two ports, San Diego and Santa Barbara, contain most of the fleet. Alternative 3 also requires unobservable boats to quit fishing if an observable vessel hits a quota.

The HMSAS has concerns that some of the alternatives could reach their cap at the end of October thus closing the fishery for the next 30 days taking out all of November, some of the best fishing periods. This shortening of the fishing time could force DGN vessels to fish hazardous weather to make up for lost fishing days jeopardizing their safety. We are also concerned about potential problems/issues that may arise with enforcement of individual vessel caps.

Given the above, we have the following questions regarding incentives which warrant further discussion:

- Is there a scenario where a small business/vessel operation would be forced to remain tied to the dock simply because they are not capable of carrying an observer?

- For Alternative 3 sub-options, do all observable vessels have to carry observers if they continue to fish when other vessels hit their individual hard caps?
- If hard caps are adopted should observed boats be able to access the Pacific Leatherback Conservation Area?
- If a closure is required, how would that impact a vessel that is out on a trip?
- Are any of these alternatives enforceable and practical for National Marine Fisheries Service (NMFS) to administer?

Considering the Initial Public Review Draft has been provided for our review and noting that neither Regulatory Flexibility Analysis nor the Regulatory Impact Review analysis have been undertaken, we recommend NMFS advise the Council on potential next steps based on the potential action to be taken today.

The HMSAS did not reach consensus on a final preferred alternative, but a majority of members preferred Alternative 1 given the questions regarding assumptions within the draft EA analysis and the effectiveness of the incentives.

PFMC
11/03/22