

FISHERY MANAGEMENT PLAN FOR WEST COAST FISHERIES FOR HIGHLY  
MIGRATORY SPECIES PROPOSED AMENDMENT 6  
WITH CHANGES AS ADOPTED BY THE COUNCIL IN SEPTEMBER 2019 AND MARCH  
2021

Notations:

- Added text: double underline
- Deleted text: ~~strikeout~~
- Unamended sections of the chapter are omitted as indicated by ellipses (...)

## 6.0 Management Measures

Sections 6.1 through 6.5 describe the general elements of the FMP that affect HMS fisheries directly. Many of these elements address fundamental requirements of the MSA and other applicable law. They can be modified through framework procedures if the Council so chooses. Section 6.6 describes fishery-specific management measures.

### 6.1 Legal Gear and Gear Restrictions

Various state restrictions on gear exist in Washington, Oregon, and California. A listing of current state regulations in Washington, Oregon, and California at the time of plan adoption is in Appendix B to the HMS FMP FEIS (PFMC 2003).

Authorized fisheries under the authority of each regional fishery management council and all fishing gear used in each fishery in the EEZ are listed in Federal regulations (50 CFR 600.725). The use of any gear or participation in a fishery not on the list of authorized fisheries and gear is prohibited. Additional definitions and relevant regulations may appear elsewhere in Federal regulations, controlling the use of gear whether or not on the list at 50 CFR 600.725(v). An individual fisherman may notify the Council of the intent to use a gear or participate in a fishery not already on the list and the Council then has 90 days to regulate or prohibit the use of the gear.

Legal commercial HMS gear includes:

- Harpoon: Fishing gear consisting of a pointed dart or iron attached to the end of a line several hundred feet in length, the other end of which is attached to a flotation device. Harpoon gear is attached to a pole or stick that is propelled only by hand, and not by mechanical means.
- Surface Hook and Line: One or more hooks attached to one or more lines (includes troll, rod and reel, handline, albacore jig, live bait, and bait boat; excludes pelagic longline and mousetrap gear. Mousetrap gear means a free-floating set of gear thrown from a vessel, composed of a length of line with a float on one end and one or more hooks or lures on the opposite end, which is not actively tended and does not comply with the definition of DSBG.
- Large Mesh Drift Gillnet: A panel of netting, suspended vertically in the water by floats along the top and weights along the bottom, which is not stationary nor anchored to the bottom. Large-mesh drift gillnets (used to target HMS) must have a minimum stretched mesh size of 14 inches. This definition minimizes potential problems from additional bycatch, protected species interactions, and competition with other fishery sectors. Small-mesh gillnet may not be used to target HMS. This description is consistent with the historic use of large-mesh drift gillnet to target swordfish and sharks.
- Purse Seine: A floated and weighted encircling net that is closed by means of a purse line threaded through rings attached to the bottom of the net (includes encircling net, purse seine, ring net, drum

purse seine, lampara net).

- Pelagic Longline: A main line that is suspended horizontally in the water column, which is not stationary nor anchored, and from which dropper lines with hooks (gangions) are attached.
- Deep-set buoy gear (DSBG): Line fishing gear in two configurations: standard buoy gear and linked buoy gear. The gear consists of either a vertical line affixed to a buoy array with one or more hooks, or a horizontal line with hooks attached, connected to the terminal ends of two vertical lines affixed to buoy arrays, respectively. Both configurations limit the number of hooks used and require the hooks to be set deeper than a specified minimum depth and that buoys are configured to avoid entanglement. The gear is fished during specified hours and requires active tending.

Legal recreational gear includes:

- Rod-and-Reel (pole-and-line): A hand-held (including rod holder) fishing rod with a manually or electrically operated reel attached.
- Spear: A sharp, pointed, or barbed instrument on a shaft. Spears can be operated manually or shot from a gun or sling.
- Hook and Line: One or more hooks attached to one or more lines (excludes mousetrap and DSBG).

These definitions of gear ~~as~~ ensure consistent and unambiguous coastwide management. However, the framework adjustment procedures (Chapter 5) may be used to modify the definitions of legal commercial or recreational fishing gears, authorize new gears, or prohibit the use of existing legal gears. Therefore, the above list is not definitive.

Gear restrictions may specify the amount, dimensions, configuration or deployment of commercial, and recreational fishing gear, for example minimum mesh size or the number of hooks. Changes in gear regulations should minimize costs to the fisheries, insofar as this is consistent with achieving the goals of the change.

## 6.2 Fishery Monitoring

### 6.2.1 *Permits*

Permits are a standard tool used in virtually all fishery management plans to support management by:

- Enhancing or facilitating collection of biological, economic or social data.
- Facilitating enforcement of laws and regulations.
- Identifying those who would be affected by actions to prevent or reduce excess capacity in the fishery.
- Providing information to meet international obligations.

A special kind of permit may be required for limited entry into a fishery. Implementation of a limited entry program would require an FMP amendment.

#### 6.2.1.1 Commercial Permits

This FMP requires a Federal permit for all commercial HMS vessels that fish for HMS off of, or land HMS in, the States of California, Oregon, and Washington. This general HMS permit is endorsed with a specific endorsement for each gear type to be used. ~~Initially, there are no qualification criteria, such as minimum amount of landings, to obtain specific gear endorsements.~~ Any commercial fisher may obtain the required gear endorsements. The permit is issued to a vessel owner for each specific fishing vessel used in commercial HMS fishing. This action is a practical procedure for tracking ~~and controlling by permits,~~ commercial HMS fishing activities and the effects of regulations on those activities.

Regulations implementing the FMP establish the permitting system and set the terms and conditions for issuing a permit. The permits and endorsements are subject to sanctions, including revocation, as provided by Section 308(g) of the MSA. Permit requirements could be changed in the future under the framework procedures (Chapter 5). This permit program would not eliminate existing state permit or licensing requirements, or Federal permits under the HSFCA.

Drift Gillnet Limited Entry Permit [N.B. This heading is added above existing text.]

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Deep-Set Buoy Gear Limited Entry Permit

A Deep-Set Buoy Gear Limited Entry (DSBG LE) permit is required to fish with DSBG in Federal waters east of 120° 28' 18" W. longitude.

### **Permit Possession**

The DSBG LE permit is held by a person, as defined at 50 CFR 660.702, who must designate a vessel on the permit. The designated vessel need not be owned by the permit holder. The permit holder may change the vessel designation on the permit by written request to NMFS not more than once per calendar year unless a *force majeure* event renders the assigned vessel incapable of operation. The vessel owner must also hold a General HMS permit for the vessel from which a DSBG permit is being fished. A person may only hold one DSBG LE permit. Multiple DSBG LE permits may designate the same vessel, but only one DSBG LE permit may be fished from any one vessel at a time. The permit holder is not required to be onboard the vessel when DSBG is in use.

### **Number of DSBG LE Permits Issued Annually and Maximum Number**

Up to 50 permits will be issued for the first year for which the fishery is authorized and up to 25 additional permits may be issued annually in subsequent years until either a) a maximum of 300 permits are issued, b) NMFS determines, based on applicable law (principally the ESA and MMPA), that the maximum number of permits should be less than 300, or c) the Council determines that the maximum number of permits should be less than 300 based on its consideration of any relevant factors such as those enumerated in Section 303(b)(6) of the MSA. Permits which are not renewed do not count towards the annual permit allocation for the following year and may be issued to new applicants in addition to the annual 25 permits.

Permits are issued by ranking applicants according to the permit qualification criteria listed below. When an application is received, the eligible applicant will be added to the applicant pool and ranked based on the qualification criteria. Applications will only be accepted during a predetermined time. Qualification for issuance of a permit will be determined prior to the permit year and/or fishing season. Tier 9 applications may be considered on a first come, first served basis annually until the maximum number of permits have been issued.

### **Limited Entry Permit Qualification Criteria**

DSBG LE permits are issued to eligible applicants in rank order according to the tiered eligibility criteria listed below. Should more eligible applicants qualify based on a tier category than the number of permits to be issued in a single year, eligible applicants are additionally ranked according to the total landed weight of swordfish attributable to the applicant within the window period for the relevant tier and by the relevant gear type (Tiers 1-5) or first come, first served (Tiers 6-9). Even if an applicant qualifies under more than one tier criterion, that person will only be issued one permit, based on their highest tier qualification. The

following tier categories are used for ranking eligible applicants:

1. EFP holders, with at least 10 documented calendar days of DSBG fishing effort by December 31, 2018. Documentation shall consist of a West Coast Observer Program record indicating either:
  - a. the EFP holder as vessel captain for that fishing day; or
  - b. fishing effort for that day conducted on a vessel owned by or under the EFP managed by that individual.
2. California Drift Gillnet Shark and Swordfish permit holders who made at least one large-mesh DGN swordfish landing between the 2013-2014 and 2017-2018 fishing seasons and surrender their state or federal DGN permit as part of a DGN permit trade-in or buy-back program.
3. EFP holders approved by the Council prior to April 1, 2021 who conducted at least 10 calendar days of DSBG fishing effort or with 10 days of DSBG effort on their vessel or by vessels they manage under the EFP by the effective date of the Final Rule authorizing DSBG. Documentation shall consist of a NMFS West Coast Observer Program record or a properly submitted NMFS DSBG logbook indicating either:
  - a. the EFP holder as vessel captain for that fishing day; or
  - b. fishing effort for that day was conducted on a vessel owned by or under the EFP managed by that individual.
4. California General Swordfish permit holders who possessed a permit during the 2018-2019 fishing season and made at least one swordfish landing using harpoon gear between the 2013-2014 and 2017-2018 fishing seasons.
5. California Drift Gillnet Shark and Swordfish permit holders who have made at least one large-mesh DGN swordfish landing between the 2013-2014 and 2017-2018 fishing seasons and who did not surrender their state or federal DGN permit as part of a trade-in or buy-back program.
6. California Drift Gillnet Shark and Swordfish permit holders who have not made a swordfish landing with large-mesh DGN gear since March 31, 2013, and who surrender their state or federal DGN permit as part of a permit trade-in or buy-back program.
7. State or Federal DGN LE permit holders who have not made a swordfish landing with DGN gear since March 31, 2013, and did not surrender their DGN LE permit as part of a state or Federal DGN permit trade-in or buy-back program.
8. Any individual with documented commercial swordfish fishing experience between January 1, 1986 and the effective date of the final rule on a first come first served basis. The basis for documenting commercial swordfish fishing experience attributable to the applicant will be possession of a valid commercial fishing license on that date and either:
  - a. A valid California Department of Fish and Wildlife fish landing receipt identifying the individual as the fisherman of record; or
  - b. A valid state or federal logbook where swordfish were taken and identifying the individual as captain or crew on that day; or
  - c. A signed affidavit from a vessel owner or captain identifying the individual as vessel captain or crew on the day that swordfish were taken.
9. Any individual on a first come first served basis.

#### Permit Renewal

The HMS LE DSBG permit is valid for one year and expires if not renewed. A permit will be renewed based on application by the permit holder and as long as the permit holder has adhered to any requirements specified in Federal regulations. Federal regulations will specify any requirements and deadlines for permit renewal applications such that the permit may be reissued for the next year. The number of expired permits will be added to the number of permits to be issued in subsequent years such that only valid, issued permits are counted toward the cumulative maximum number to be issued in a year.

## Permit Transfer

HMS LE DSBG permits are not transferable except for a one-time transfer upon death of a permit holder to a member of that permit holder’s immediate family as defined in regulations.

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## 6.3 Bycatch Monitoring and Minimization

[N.B. *This section amended to address standardized bycatch reporting methodology requirements through Amendment 7. Additional text specific to deep-set buoy gear shown here.*]

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### 6.3.1 Standardized Bycatch Reporting Methodology

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The authorized gear types enumerated in Section 6.1 define the following fisheries to which SBRMs apply:

- Surface hook-and-line fishery targeting albacore tuna
- Harpoon fishery
- Coastal purse seine fishery when targeting HMS MUS
- California large mesh drift gillnet fishery
- Pelagic longline fishery
- Recreational party/charter boat fishery
- Private recreational boat fishery
- Deep-set buoy gear

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## Deep-set Buoy Gear

Prior to authorization of standard and linked DSBG under this FMP, bycatch was characterized by data collected during research and exempted fishing permit (EFP) trials by observers, from fishing reports for each EFP vessel, and landings to West Coast ports. Initially, 100 percent observer coverage was required for DSBG EFPs, consistent with Council recommendations. With 100 percent observer coverage, there was no uncertainty about bycatch in this fishery. Subsequently, the observer coverage was scaled back to less than 100 percent for vessels that completed initial trips with 100 percent coverage. Nonetheless, this data is sufficient to characterize catch and bycatch in the fishery. This data indicates that the fishery is highly selective for swordfish, with minimal bycatch.

The observer, logbook, and landing data from research and EFP DSBG trips was integrated to characterize bycatch occurring in the fishery. Other species caught in DSBG include marketable non-target species such as opah and escolar. Of unmarketable bycatch species, the most commonly caught is bigeye thresher shark. Data indicate the majority of bigeye thresher shark caught in DSBG are released alive. Preliminary post-release mortality studies conducted by the Pflieger Institute of Environmental Science indicate that over 90 percent of bigeye thresher sharks caught and released in DSBG fishing survive the acute effects of capture (NMFS 2021).

As an authorized fishery under this FMP, vessel logbooks must be submitted to characterize catch and bycatch on fishing trips. Logbook data can be integrated to determine compliance with reporting

requirements and to characterize bycatch, despite the lack of observer requirements for the fishery. Without 100 percent observer coverage, there is uncertainty about self-reported bycatch data in logbooks. However, when considering observer and logbook data for EFP trips, catch rates derived from the different data collection types were similar. The selectivity of the fishery and the low volume of target catch indicated in the EFP data indicate that the costs of on-board observers or electronic monitoring may not be necessary from a technical perspective because the fishery is not managed to a catch or bycatch limit. Operationally, the fishery, which primarily operates in the Southern California Bight, is accessible to smaller vessels, some of which may not have the ability to accommodate on-board observers.

[Add the following reference to Section 8.0 Literature Cited: NMFS 2021. Draft Environmental Impact Statement for Amendment 6 to the Fishery Management Plan for West Coast Highly Migratory Species Fisheries: Authorization of Deep-set Buoy Gear. August 2021. 175 pages. NMFS, West Coast Region, Long Beach, California.]

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## 6.6 Fishery-Specific Conservation and Management Measures

This section describes fishery-specific management measures for the drift gillnet, ~~and~~ longline, purse seine, and deep-set buoy gear fisheries. Other HMS fisheries do not have Federal regulations except for general requirements and prohibitions, such as permits and logbooks.

Management measures may be modified in the future, or new regulations may be implemented, using framework adjustment procedures in the FMP. These measures would stay in effect until revised or removed by specific action.

Management of recreational fishing is mainly deferred to the states in this FMP, reflecting the mainly localized nature of sportfishing issues and values that are best addressed at that level. Although this FMP does have a proposed catch-and-release measure for the recreational fishery that could affect fishing practices, that program is voluntary.

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### 6.6.4 Deep-Set Buoy Gear Management Measures

In addition to the general requirements described elsewhere in this FMP, the following measures will be specified in Federal regulations for DSBG fishing. As described in Section 6.1, DSBG includes two gear configurations, standard (SBG) and linked (LBG).

- Maximum amount of gear deployed
- Gear tending requirements:
- Time of gear deployment/retrieval
- Simultaneous use of DSBG and other gear types on a single trip.

The Council may amend these measures through the biennial management process (Chapter 5).