

## DRIFT GILLNET HARD CAPS UPDATE

The Pacific Fishery Management Council (Council) originally adopted a proposal to apply hard caps (bycatch limits) for selected high priority protected species to the California large mesh drift gillnet (DGN) fishery in September 2015. This proposal was ultimately not implemented. (See [Agenda Item F.5, Situation Summary, June 2021](#), for a brief history of the action). The Council began reconsidering the proposal in 2021 and adopted a revised purpose and need statement and range of alternatives. A draft analysis of the proposed action and alternatives was presented to the Council in November 2022. At that time the Council narrowed the range of alternatives and indicated its intention to take final action on the proposal, choosing a preferred alternative, in June 2023. The revised range of alternatives, in summary, is:

1. No Action
2. Two-year rolling hard caps (the Council's 2015 proposal)
3. When a cap level is reached the fishery closes for the remainder of the fishing year (modified Alternative 3A)
4. Within season individual vessel and fleetwide caps and closures with three cap thresholds (Alternative 3B)

The Council also requested the Highly Migratory Species Management Team (HMSMT) to provide an update on further analysis of the narrowed range of alternatives at this meeting including how it is addressing recommendations made by its Scientific and Statistical Committee ([Agenda Item G.3.a, Supplemental SSC Report 1](#)). Agenda Item I.3.a, Southwest Fisheries Science Center Report 1, is a Technical Memorandum describing the revised bootstrap model used to evaluate changes in revenue and mortality/injury of high priority protected species under the alternatives. Attachment 1 is a staff paper describing analyses that will be completed pursuant to the Regulatory Flexibility Act and Executive Order 12866. The HMSMT is prepared to submit a supplemental report describing its work on the analysis for Council final action in June.

The Federal 2023 omnibus funding bill enacted in December 2022 also enacted the Driftnet Modernization and Bycatch Reduction Act. This Act amends the Magnuson-Stevens Act (MSA) to include large mesh drift gillnet in the definition of large-scale driftnet fishing (by adding mesh size of 14 inches or greater to the definition at §3(25)), which is prohibited (§307(1)(M)), but includes an exception from the prohibition applicable to use of DGN gear within five years of enactment (i.e., to December 2027). During this period, NMFS must conduct a transition program (§206(i)) to phase out use of the gear and compensate fishery participants for the cost of fishery-related permits, gear forfeiture, and purchase of alternative low bycatch gear. Section 206, Large-Scale Driftnet Fishing, is further amended to add a related finding and policy statement. Attachment 2 shows the relevant sections of the MSA, as amended. The [Explanatory Statement](#) for Commerce, Justice, Science, and Related Agencies Appropriations Bill, 2023 states the “[Commerce] Committee directs NMFS to consult with the Pacific Fishery Management Council on a strategy to phase out the use of large mesh driftnets and permit the use of alternative fishing methods to increase the economic viability of the West Coast-based swordfish fishery while minimizing bycatch to the maximum extent possible” (page 44).

Passage of the Driftnet Act substantially changes the context for the proposed action and would have to be taken into account in the analysis supporting Council final action. Given that the use of the gear will be prohibited within five years, and considering the amount of time it may take to implement the proposed action, the Council may wish to consider whether to continue with the proposed action and alternatives as currently specified or adopt another course of action.

**Council Action:**

**Review Updated Analysis and Recent Legislation, and Provide Guidance on Next Steps.**

Reference Materials:

1. Agenda Item I.3, Attachment 1: Staff Paper on Regulatory Flexibility Analysis and Regulatory Impact Review (Executive Order 12866) for the California Drift Gillnet Hard Caps Action.
2. Agenda Item I.3, Attachment 2: Staff Compilation of Amendments to the Magnuson-Stevens Fishery Conservation and Management Act by the Driftnet Modernization and Bycatch Reduction Act.
3. Agenda Item I.3.a, SWFSC Report 1: Technical Memorandum, Revised Bootstrap Methodology to Compare the Operation of the West Coast Large Mesh Drift Gillnet Fishery under Alternatives for Individual and Variable Length Hard Caps.
4. If received, Public Comments are electronic only ([see e-portal](#)).

Agenda Order:

- I.3 Drift Gillnet Hard Caps Update Kit Dahl
- a. Reports and Comments of Management Entities and Advisory Bodies
  - b. Public Comment
  - c. **Council Action:** Review Updated Analysis and Recent Legislation, and Provide Guidance on Next Steps

PFMC  
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