

HIGHLY MIGRATORY SPECIES MANAGEMENT TEAM REPORT ON DRIFT GILLNET FISHERY HARD CAPS - UPDATE

At the November 2022 Pacific Fishery Management Council (Council) meeting, the Council directed the Highly Migratory Species Management Team (HMSMT) to update the hard caps impact analysis to consider the Council's revised range of alternatives (ROA). Specifically, the methodology was updated using the additional methods for reporting bootstrap simulation results recommended by the Scientific and Statistical Committee (SSC) ([Supplemental SSC Report 1](#)). The HMSMT was also tasked with preparing analyses to address the requirements of Executive Order 12866 (Regulatory Impact Review [RIR]) and the Regulatory Flexibility Act (RFA) for the Council to consider in order to make an informed decision regarding its final preferred alternative (FPA).

Two reports in the briefing book address the aforementioned tasks. A Council staff report ([Agenda Item I.3, Attachment 1](#)) summarizes the process and components required under RFA and RIR, and a report from the Southwest Fisheries Science Center (SWFSC) ([Agenda Item I.3.a SWFSC Report 1](#)) presents updates in response to the Council's revised ROA and the requests made by the SSC during the November 2022 meeting.

At their March 2023 meeting, Dr. Stephen Stohs briefed the SSC on their requested updates to the bootstrap analysis and the SSC subsequently noted that the revisions addressed all of their concerns ([Agenda Item I.3.a, Supplemental SSC Report 1](#)). This analysis includes results of an impact assessment of the new alternatives that are necessary to prepare the remaining documentation needed to support Council selection of an action alternative. However, the draft Environmental Assessment still must be updated to reflect the new alternatives and results of the latest impact analysis, and the RIR and RFA analyses also need to be completed. The HMSMT anticipates that the remaining work to prepare for final action in June 2023 could be completed on schedule.

The HMSMT also discussed implications for the hard caps action of the amendments to the Magnuson–Stevens Fishery Conservation and Management Act (MSA) under the Driftnet Modernization and Bycatch Reduction Act (Driftnet Act), including the direction from Congress to consult with the Council on a strategy to phase out drift gillnet (DGN) gear and permit the use of alternative fishing methods and gear types. These discussions ranged from how the Driftnet Act may impact Council priorities for the fishery, a schedule for the National Marine Fishery Service (NMFS) to implement hard caps, and the cumulative impacts of a near-term sunset of the fishery and the hard cap alternatives (as revised by the Council during the November 2022 meeting). Due to the uncertainty arising from this legislative development, the HMSMT provides information for the Council to consider when examining the possible implications of near-term sunset of the fishery.

In the context of the Driftnet Act, a hard caps policy may be in effect for at most three and a half fishing seasons before the fishery sunsets, as dictated by Federal legislation. That estimate assumes a hard caps rulemaking could be completed for the start of the 2024/2025 fishing season. The HMSMT considered the effect this shorter window of continued operation for the fishery may have on the likelihood a hard cap will be triggered as well as the likelihood of closures preventing

at least one high priority protected species (HPPS) mortality or injury. In essence, the net conservation benefits to HPPS are curtailed by the impending Federal sunseting of the fishery while the implementation costs of hard cap regulations are expected to remain the same.

The HMSMT discussed how monitoring of bycatch and mitigation of risks to HPPS in the fishery could proceed should the Council decide not to move forward with final action for hard caps in light of the Driftnet Act. Observer coverage remains a requirement for the DGN fishery, and observer summaries (including information on catch and bycatch) will continue to be [posted annually](#). Additionally, because observer coverage is not 100 percent, NMFS produces total bycatch estimation reports for the fishery, which include estimates for marine mammals and sea turtles (produced annually, e.g., [Caretta 2022](#)), including all HPPS considered in the hard caps policy. Should serious injury or mortality of an HPPS be observed, it will be accounted for in [Stock Assessment Reports](#) and evaluated with respect to the fishery's Take Reduction Plan. In addition to the aforementioned information sources, the Council has the opportunity to review performance metric updates for the DGN fishery. Finally, mitigation of protected species take can occur under the Marine Mammal Protection Act and Endangered Species Act.

PFMC
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