

DRIFTNET MODERNIZATION AND BYCATCH REDUCTION ACT –
TRANSITION UPDATE

As reported in March 2023 ([Agenda Item I.3, Situation Summary](#)), in December 2022 Congress enacted the Driftnet Modernization and Bycatch Reduction Act. A staff compilation of resulting changes to the Magnuson-Stevens Act may be found in Attachment 1. The original statutory language may be found in Attachment 2. This Act:

- 1) Prohibits large mesh drift gillnet gear (DGN) by including it in the Magnuson-Stevens Act definition of large-scale driftnet fishing (§3(25)), which is prohibited at §307(1)(M), with an exception that allows continued use of the gear until no later than December 2027.
- 2) Establishes a transition program to phase out use of the gear and compensate fishery participants for the cost of fishery-related permits, gear forfeiture, and purchase of alternative gear with minimal incidental catch of living marine resources.

An associated explanatory statement directs National Marine Fisheries Service (NMFS) to consult with the Pacific Fishery Management Council (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. Furthermore, the Highly Migratory Species Fishery Management Plan (HMS FMP) would need to be amended to remove DGN-related provisions coincident with the mandated December 2027 gear prohibition.

Any compensation under the transition program would be contingent upon Congressional future appropriations, which lends some level of uncertainty in designing a program now. Nonetheless, the Council may want to consider what its advisory role would be and, with NMFS, begin scoping a timeline for transition program development and implementation along with the aforementioned FMP amendment process. The broad statutory language raises various questions the Council may wish to weigh in on. A sample of potential questions includes: Does compensation for fishery-related permits apply only to the Federal limited entry DGN permit or also to any outstanding state permits required to prosecute the fishery? How would the value of such permits be assessed (noting that the Act specifies compensation in terms of “any fee originally associated with a permit”)? How should the value of forfeited gear and the cost to purchase alternative gear be assessed? How would the Federal transition program relate to the already concluded California state transition program (e.g., should state transition program participants be additionally compensated under the Federal program)? At this meeting, the Council could discuss with NMFS the scope of its input along these lines. Should the Council wish to play a role, it also would be prudent to identify future Council meetings at which to continue engagement on the transition program and the related FMP amendment.

Council Action:

Council Discussion and Guidance, as Appropriate.

Reference Materials:

1. Agenda Item I.4., Attachment 1: Staff Compilation of Amendments to the Magnuson-Stevens Fishery Conservation and Management Act by the Driftnet Modernization and Bycatch Reduction Act.
2. Agenda Item I.4, Attachment 2: Driftnet Modernization and Bycatch Reduction Act, Original Statutory Language.
3. If received, Public Comments are electronic only ([see e-portal](#)).

Agenda Order:

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|-----|------------------------------------------------------------------------|------------|
| I.4 | Driftnet Modernization and Bycatch Reduction Act – Transition Update | Kit Dahl |
| a. | National Marine Fisheries Service Report | Ryan Wulff |
| b. | Reports and Comments of Management Entities and Advisory Bodies | |
| c. | Public Comment | |
| d. | Council Action: Council Discussion and Guidance, as Appropriate | |

PFMC
08/10/23