

HIGHLY MIGRATORY SPECIES ADVISORY SUBPANEL REPORT ON THE DRIFTNET
MODERNIZATION AND BYCATCH REDUCTION ACT – TRANSITION UPDATE

Transition - movement, passage, or change from one position, state, stage, subject, concept, etc., to another; change. See - [Transition Definition & Meaning | Dictionary.com](#)

The Highly Migratory Species Advisory Subpanel (HMSAS) received a briefing from Ms. Amber Rhodes (National Marine Fisheries Service, NMFS) on the Driftnet Modernization and Bycatch Reduction Act (Act); in particular, the transition program and fishery prohibition mandated by Congress. As a reminder, the Act mandates awarding “grants to eligible permit holders who participate in the program.”

We understand that Congress has not appropriated the funds necessary to implement the gear transition grant program and compensate fishery participants as required by the Act. The HMSAS is concerned there is no current pathway to secure Federal funding for the gear transition program and it will unfairly impact the remaining participants in this fishery and dependent fishing communities. The HMSAS would like to ensure that NOAA secures the required funding necessary for this grant program as soon as possible, and far ahead of the 2027 deadline for the end of the fishery. **The HMSAS recommends the Council request NMFS prioritize securing the necessary funding for the transition program at the earliest possible date, ideally in Fiscal Year 2024.**

The HMSAS reviewed the questions posed in the situation summary about how a transition program could be structured and offers the following comments.

Does compensation for fishery-related permits apply only to the Federal limited entry DGN permits 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”)?

The present value of all expenditures for the purchase or renewal of any current permit – state or Federal – should be part of the formula for this portion of the compensation package. This should be permits specific to the drift gillnet fishery and any permit necessary to fish commercially and thus participate in the fishery. The statutory language about “any fee originally associated with a permit” is ambiguous. Does this only apply to fees paid to state or Federal agencies for purchase or renewal or could it cover the cost of past permit transfers between private parties in circumstances where that was allowed? **We recommend NMFS take the most favorable interpretation of the permit cost provision, within reason.**

How should the value of forfeited gear and the cost to purchase alternative gear be assessed?

We note the types of vessel that is appropriate for alternative, low bycatch gear, such as deep-set buoy gear, are not the same as the vessels used in the drift gillnet fishery. Without the benefit of being able to use those vessels for their intended use, those vessels value will be significantly lower

on the market. Therefore, we believe that “gear” should be interpreted broadly to include the purchase and/or sale of a vessel and any other associated equipment, where appropriate.

[Supplemental NMFS Report 1](#) provides a list of potential actions for Council discussion under this agenda item or a future agenda item. The first bullet point reads as follows, “Consult with the Council—The Department of Commerce’s Fiscal Year 2023 Appropriations was accompanied with the following explanatory note, “NMFS is directed 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 (emphasis added).” As noted in our [Report for Agenda Item I.1](#), there are serious questions regarding the economic viability of DSBG. This would be particularly true for vessels currently participating in the drift gillnet (DGN) fishery. **The HMSAS recommends making a broader range of alternative gears available as transition alternatives that could help provide a source of livelihood for DGN fishermen given the significant concerns regarding the economic viability to their vessels and operations.**

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)?

Since those fishery participants that took the state buyout have already been compensated, we oppose any additional compensation through the Federal transition program. Current DGN fishermen who did not take part in the buyout estimated the opportunity to continue utilizing DGN to harvest marketable species exceeded the amount included in the purchase offer. The HMSAS believes that lost potential future income is a relevant factor in compensating fishermen who will be prohibited from continuing to use DGN gear after 2027.

Additional items for consideration:

The HMSAS requests the Council ask NMFS General Counsel to provide guidance on what happens should funds for the Grant Program remain unavailable by 2027.

Overall, we think the financial dimension of the transition program could be accomplished much more efficiently by first estimating the aggregate cost of all elements (permits, drift gillnet gear, new gear) for all remaining participants. That amount would be allocated to transition costs distributed to participants on a pro rata basis according to specified factors such as actual participation in the fishery. This would be similar to how the state buyout program worked.

To conclude, in response to the planned end to the DGN fishery in 2027, the HMSAS recommends that any program implemented should serve to ensure fair compensation to active DGN fishery participants who have worked to improve their fishery through innovations in gear and fishing practices to avoid undesirable bycatch. This could retain seafood production, particularly in the underutilized abundant swordfish stocks and other HMS stocks through the retention of fishing expertise and providing a smooth transition of current investment and assets into an alternative fishery.