

NATIONAL MARINE FISHERIES SERVICE (NMFS) REPORT ON HIGHLY MIGRATORY SPECIES (HMS) ACTIVITIES

Deep-Set Buoy Gear (DSBG) Updates

On September 15th, 2023, DSBG became an authorized fishery under the HMS Fishery Management Plan. On that date, we also rescinded all active exempted fishing permits (EFPs) for the now-authorized standard and linked configurations of DSBG. Consistent with the Council's HMS FMP Amendment language, we issued 50 initial permits in 2023, and an additional 25 permits on April 1, 2024. This brings the number of issued DSBG permits to a maximum of 75, out of a total of 77 qualified applicants.

Since the March Council meeting, we completed a quality control check of the complete integrated database of DSBG observer, logbook, and landings data. Encouragingly, we did not identify any significant issues with the data, which are now housed in PacFIN. Below is a bulleted summary of DSBG performance following authorization. These numbers cover the time period from September 15, 2023 through April 30, 2024:

- 19 vessels have fished authorized DSBG so far. This represents a permit utilization rate of 38%. This includes a small amount of effort in early 2024, though most of the effort was made during the last few months of 2023.
- There have been 315 days fished since authorization. The large majority of this effort was made using the standard DSBG configuration, with a small number of days fished using the linked configuration.
- Total swordfish catch during this period was 200 fish. This represents a swordfish catch per unit effort (CPUE) of approximately 0.65 fish per day. This CPUE is lower than the CPUE during EFP fishing, which averaged 1.14 fish per day. This discrepancy may be due to the timing of authorization, lower than usual swordfish presence in typical DSBG fishing areas, higher than usual presence of non-target species, or other factors.
- Swordfish represented approximately 83% of the total catch (in terms of individual fish caught) post-authorization. All non-target catch consisted of sharks, with bigeye thresher shark and blue shark making up the majority.
- No interactions with any protected species have been reported post-authorization.

Oceanic Whitetip Shark 4D Proposed Rule

On May 13, 2024, NMFS published a proposed rule to issue protective regulations under section 4(d) of the Endangered Species Act (ESA) for the conservation of the threatened oceanic whitetip shark (*Carcharhinus longimanus*). The proposed rule would extend all ESA section 9(a)(1) prohibitions to the species, with limited exceptions for scientific research and law enforcement activities.

The species was listed as a threatened species in 2018, largely due to population declines caused by incidental bycatch in commercial fisheries, illegal international trade of oceanic whitetip shark fins, and inadequate regulatory mechanisms to address these threats. While several regulations control for overutilization of oceanic whitetip sharks in U.S. waters, retention of oceanic whitetip sharks is not prohibited in all gear types or fisheries, and other forms of take beyond retention are not prohibited.

Public comment on the proposed rule is open through July 15, 2024. The proposed rule and instructions on submitting a comment can be found [here](#).

Drift Gillnet (DGN) Loggerhead Conservation Area Closure

NMFS expects to publish on June 3, 2024, a Federal Register Notice for a temporary in-season rule to prohibit fishing with large-mesh drift gillnet (DGN) gear in the Pacific Loggerhead Conservation Area in the Southern California Bight (SCB) from June 1, 2024, through August 31, 2024. This prohibition is based on the Assistant Administrator for Fisheries' (AA's) determination that El Niño conditions are occurring off the coast of southern California. This action is intended to protect Endangered Species Act-listed loggerhead sea turtles (*Caretta caretta*), specifically, the endangered North Pacific Ocean Distinct Population Segment.

In May 2024, NMFS staff reviewed the SST anomalies in the SCB during March and April of 2024, relying on SST maps available through NOAA's [Coast Watch program](#). These maps indicated that SSTs were above normal in the SCB. NMFS concluded that a determination that El Niño conditions are occurring off southern California is warranted based on SSTs that were warmer than normal during March and April, 2024, consistent with regulations at 50 CFR 660.713(c)(2)(ii). Also in March and April 2024, the National Weather Service's Climate Protection Center (CPC) issued El Niño Advisories for the Pacific Ocean. Under the CPC's El Niño/Southern Oscillation (ENSO) diagnostic system, an El Niño Advisory is issued when El Niño conditions are observed and/or expected to continue.

If SSTs return to normal or below normal during a closure period, our regulations state that the AA may re-open the fishery after publishing a Federal Register notice announcing that El Niño conditions are no longer present in the SCB. Reports published from February 2024 to May 2024 included a La Niña Watch status in addition to the El Niño Advisory, and the CPC report on May 9, 2024, indicates a transition from El Niño to ENSO-neutral likely in the next month. The CPC also indicates a La Niña may develop in June-August (with a 49% chance) or July-September (with a 69% chance).