



Bycatch Update: 2021-22 Drift Gillnet Observer Data Summary
June 9, 2022

We reviewed and analyzed California swordfish drift gillnet (DGN) observer data for the 2021-22 fishing season and the 2021 calendar year summary provided by the National Marine Fisheries Service.¹ The fishing season covers the time between May 1, 2021 to January 31, 2022. We also provide updates on concerns over the legality and management of the DGN fishery.

SUMMARY FINDINGS

- 7 fishing vessels participated in the California drift gillnet fishery in the 2021-22 season, conducting an estimated 195 total driftnet sets;
- 80.5% of the drift gillnet fishing effort went unobserved despite prior recommendations by the Pacific Fishery Management Council (PFMC) for 100 percent monitoring of the fleet;
- NMFS states that 26% of the driftnet sets were made by fishing vessels that are deemed 'unobservable'.
- Based on those sets that were observed by an independent observer, the California swordfish drift gillnet fishery:
 - caught 1 marine mammal for every 3 swordfish landed;
 - discarded more than 8 fish for every 1 swordfish landed;
 - killed 1 common dolphin for every 4 swordfish;
 - caught 92 marine mammals, 87 of which were released dead.
- Even with low observer coverage, there were two observed humpback whale takes in the DGN fishery in *calendar* year 2021.² The humpback whale populations off California are listed as threatened and endangered with extinction under the U.S. Endangered Species Act.
- Only 5% of the total drift gillnet catch was swordfish (267 swordfish).
- 45% of the total drift gillnet catch was discarded (2,371 animals).
- 45% of the total drift gillnet catch was Pacific bluefin tuna (2,386 bluefin), which are overfished and subject to overfishing.³

BACKGROUND

Drift gillnets targeting swordfish are deployed at night near the ocean surface amid an epicenter of ocean wildlife off the coast of California. This fishery is one of the dirtiest fisheries on the West Coast in terms of its overall bycatch rate and impact to protected marine life. The enormous nets, which can measure over a mile in length and two hundred feet deep, drift in the open ocean and indiscriminately

¹ National Marine Fisheries Service Report on Highly Migratory Species Activities. Available <https://www.pcouncil.org/documents/2022/06/g-1-a-supplemental-nmfs-report-1-3.pdf/>

² One in fishing year 2020-21 and one in fishing year 2021-22.

³ NOAA Fishery Stock Status, March 31, 2022, Available: [here](#)

entangle many forms of marine life. Drift gillnets are still used off the coast of California today. This is despite widespread acknowledgement of the destructive nature of large mesh drift gillnets and prohibitions on this gear in all other U.S. regions and many parts of the globe.

THE CALIFORNIA DRIFT GILLNET TRANSITION PROGRAM IS MOVING FORWARD

As of April 2022, 21 active drift gillnet fishermen have participated in the California state Drift Gillnet Transition Program and turned in their nets and permits. Through the Transition Program drift gillnet permit holders can voluntarily surrender their nets and state permits for a one-time cash payment, and priority issuance of a deep-set buoy gear permit. Of the active California drift gillnet permit holders that qualify for the state program, 28 out of 32 indicated their willingness to participate. There are currently 11 remaining 'active' drift gillnet permit holders, however, only 7 fished drift gillnet gear last year.

THE REMAINING DRIFT GILLNET SWORDFISH FISHERY IS DIRTY AND DANGEROUS TO WILDLIFE

Swordfish comprised only 5% of the drift gillnet fishery catch (267 swordfish) in the 2021-22 fishery. 45% of the catch in the drift gillnet fishery was discarded, with common mola, sharks and rays being the most frequently discarded fishes. One ESA-listed threatened or endangered humpback whale was observed injured by a drift gillnet in the 2021-22 fishery (two in calendar year 2021). Observers also documented 13 short beaked common dolphins, one Risso's dolphin and three California sea lions which were killed in the 38 observed sets. Yet over 80% of the drift gillnet sets were *unobserved* meaning the total impact to marine wildlife is much higher. We know from an Oceana analysis published last year that approximately 98% of marine mammal takes on unobserved fishing trip go unreported despite legal requirements to do so.⁴ The PFMC recommended 100% monitoring of all catch and bycatch in all trips and that NMFS remove the "unobservable" exemption for certain DGN vessels by 2018, however, NMFS has ignored that recommendation and has no plans or intention of increasing observer coverage or removing the "unobservable" exemption. There are currently no hard caps on bycatch in the fishery as recommended by the PFMC in 2015. Had the recommended hard caps been in place, the observed humpback whale takes would have closed the fishery in 2021.

DEEP-SET BUOY GEAR PROVIDES A CLEAN ALTERNATIVE BUT NMFS CONTINUES ITS DELAY

In 2021 fishermen using deep-set buoy (DSBG) gear landed roughly four times more swordfish into California ports than fishermen using drift gillnets (41.7 metric tons with DSBG versus 9.5 metric tons with DGN) and earned a higher price per pound.⁵ Deep-set buoy gear continues to prove it is a clean and profitable alternative. Experimental trials and testing under an Exempted Fishing Permit program have

⁴ Oceana (November 11, 2021). Available: <https://pfmc.psmfc.org/CommentReview/DownloadFile?p=5b26aad7-a15e-4e47-8eaf-c4f7de32021e.pdf&fileName=Hard%20Caps%20PFMC%2011-11-2021%20FINAL.pdf>

⁵ Pacific Fisheries Information Network. 2022. All species report, commercial fisheries landed catch, revenue and price-per-pound, Available: <https://reports.psmfc.org/pacfin/f?p=501:2:8888833612166:::> 'Other' landings is predominately deep-set buoy gear but may contain some landings by harpoon.

been wildly successful. Up to 98 percent of animals caught with deep-set buoy gear are swordfish or other marketable catch.⁶

In September 2019, the PFMC unanimously approved the permitting and authorization of a limited entry deep-set buoy gear fishery as part of the Highly Migratory Species Fishery Management Plan. NMFS has delayed implementation or issuance of those permits. Despite commitments in 2021 to finalize the authorization and issue permits by Spring 2022, NMFS has no plans to do so in 2022 nor did the agency provide an update to the PFMC in its June 2022 NMFS report on HMS regulatory activities.⁷

CONCERNS OVER LEGALITY OF THE SWORDFISH DRIFT GILLNET FISHERY

Oceana strongly opposed NMFS’ recent issuance of a negative impact determination and MMPA incidental take permit for the swordfish DGN fishery.⁸ NMFS failed to address the concerns raised in Oceana’s comment letter. In summary, NMFS issuance of the permit was faulty based on:

1. Excessive impacts of the DGN fishery to humpback whales;
2. NMFS ignoring the observed 2021 DGN humpback whale bycatch events in their analysis;
3. Insufficient observer coverage;
4. Serious underreporting of marine mammal bycatch by fishermen;
5. Lack of measures to limit the take of ESA-listed species such as hard caps;
6. NMFS failing to account for the 3 distinct population segments (DPS) of humpback whales identified in 2016, in particular the endangered Central American breeding population.

On June 6, 2022, the Center for Biological Diversity informed NMFS of the Center’s notice of intent to sue NMFS over violations of the Endangered Species Act related to the California drift gillnet fishery, specifically due to the fishery’s impacts to humpback whales.

2021-22 DGN Fishery	Observed Catch	Total Estimated Catch	Estimated Kills
Short-Beaked Common Dolphin	13	67	67
Risso's Dolphin	1	5	5
Humpback Whale	1	5	0
California Sea Lion	3	15	15
Total	18	92	87

Table 1. Observed and total estimated marine mammal takes and kills in the 2021-22 California drift gillnet fishery. Total catch extrapolated from 38 observed sets to the total fishing effort of 195 sets (19.5% observer coverage). 95% of the marine mammals were released dead.

⁶ PIER DSBG EFP Update, June 2018: <https://www.pcouncil.org/documents/2018/06/agenda-item-g-4-attachment-1.pdf/> AND. PIER (2015). Exempt Fishery Proposal Application for Deep-Set Buoy Gear. Pacific Fishery Management Council. March 2015. Available: <https://www.pcouncil.org/documents/2015/03/agenda-item-h-3-a-attachment-2.pdf/>

⁷ NMFS June 2022 Report to PFMC on HMS Activities: <https://www.pcouncil.org/documents/2022/06/g-1-a-supplemental-nmfs-report-1-3.pdf/>

⁸ Oceana January 18, 2022 letter to Tina Fahy, NMFS West Coast Region.

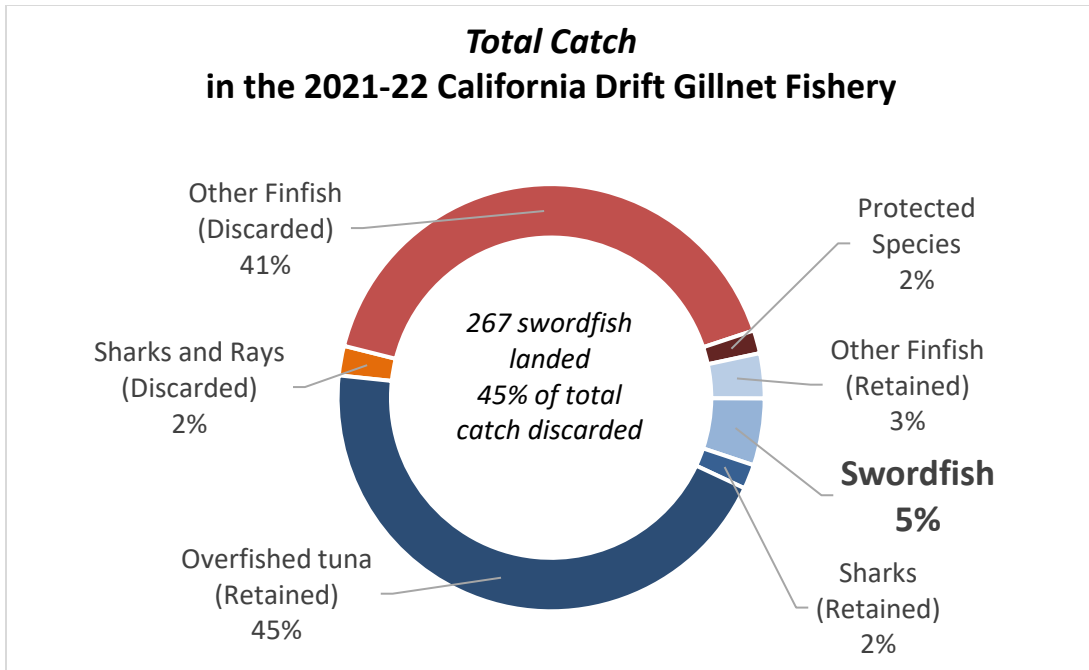


Figure 1. 2021-22 DGN total estimated catch. Total catch extrapolated from 38 observed sets to the total fishing effort of 195 sets (19.5% observer coverage).

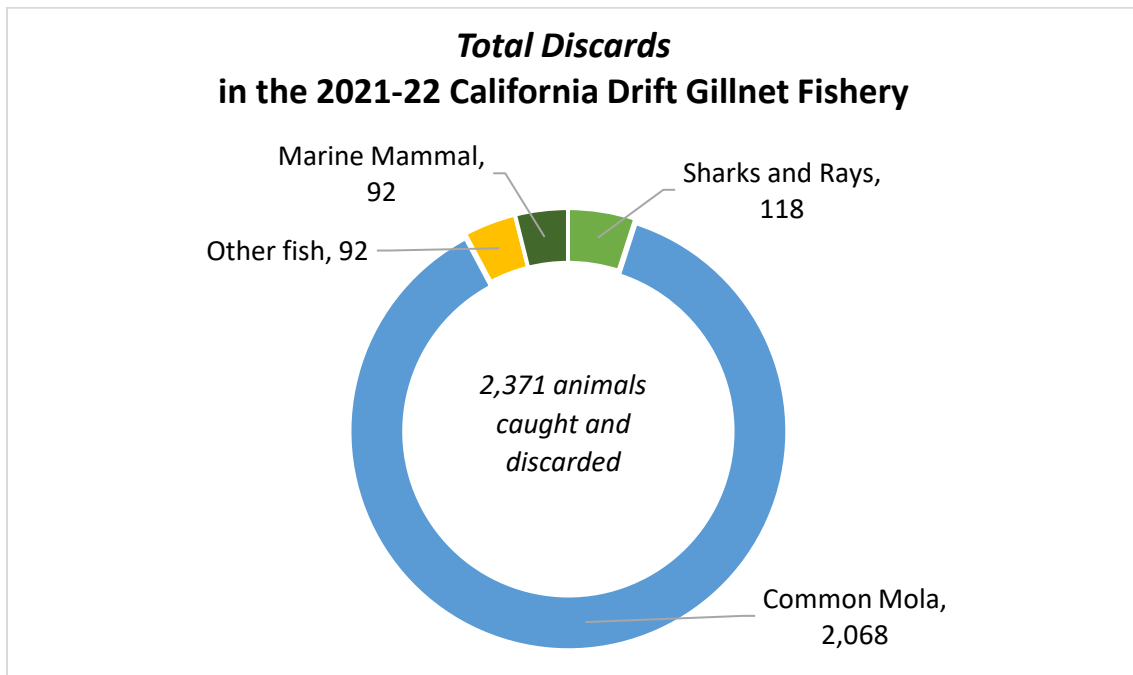


Figure 2. Total estimated discards in the 2020-21 drift gillnet swordfish fishery by species. Total discards extrapolated from 38 observed sets to the total fishing effort of 195 sets (19.5% observer coverage).