

Staff Summary for June 19-20, 2024

25. Commercial California Halibut and White Seabass Set Gill Net**Today's Item**Information Action

Discuss proposed amendments to regulations for commercial California halibut and white seabass set gill net fisheries.

Summary of Previous/Future Actions

- | | |
|--|---------------------------|
| • Marine Resources Committee (MRC) vetting | 2022 – 2023, various; MRC |
| • MRC vetting | November 16, 2023; MRC |
| • Notice hearing | April 17-18, 2024 |
| • Today's discussion hearing | June 19-20, 2024 |
| • Adoption hearing | August 14-15, 2024 |

Background

In April 2024, the Commission authorized publishing a notice of intent to add regulations related to commercial California halibut and white seabass set gill nets. The notice was published in the California Regulatory Notice Register on May 31, 2024 (Z2024-0521-01).

The proposed regulation is the initial phase of introducing management measures into the California set gill net fishery, with the objectives of reducing bycatch impacts on unintended marine life and improving data collection to fill data gaps through:

1. *maximum net service interval (soak time)*, limiting the time nets remain set to reduce bycatch mortality;
2. *gear marking*, adding colored straps for easier identification and data collection; and
3. *maximum net height (mesh depth)*, limiting net depth to target specific fish species.

More detailed information on the proposed regulation and its development can be found in Exhibit 1.

The new regulation was noticed with options for a maximum net service interval requirement (range of 24-48 hours) and gear marking color for the required nylon strap (three color options). As part of its notice authorization, the Commission requested that the Department provide a recommendation for the soak time and gear marking color options at the discussion hearing (today).

Update

As requested, the Department has provided recommendations for the regulatory options (Exhibit 5):

1. *Maximum net service interval*: The Department recommends a 36-hour maximum service interval to strike a balance between reducing discard mortality and providing increased fishing flexibility.

The Department's recommendation was informed by detailed analyses it presented at the November 2023 MRC meeting. The analyses considered net service interval trends,

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including trade-offs in conservation benefit (reduced discard mortality rates) and economic benefits (catch rates of primary target species, fuel use and operational flexibility). Additional analyses and discussion of trade-offs are included in the initial statement of reasons (Exhibit 3; see discussion starting on page 2 and figures on pages 3 through 5).

2. *Gear marking color*: The Department recommends an *orange*-colored nylon strap as the identifying color marker for set gill nets from California, following consultation with industry members and assessing product availability.

Today's meeting is an opportunity for public discussion of the proposed regulation and Department recommendations.

Significant Public Comments

1. Two commenters express concern about set gill net bycatch levels of sensitive species like birds and sharks and state that current levels of bycatch in the fishery should be declared unacceptable (exhibits 5 and 7).
2. Assemblymember Bennett commends the Commission's efforts to update set gill net fishery regulations, and urges the Commission to address bycatch and marine mammal entanglement through a 24-hour maximum service interval (Exhibit 6).
3. Eight commenters with substantially similar emails consider set gill nets to be an outdated fishing method with unacceptable bycatch, and, if not outright banned, advocate for the shortest possible soak time and unique gear markings (see Exhibit 8 as an example).
4. Several NGOs and academic scientists advocate for strictest regulations to bycatch and mortality, emphasizing a 24-hour maximum service interval (exhibits 9 and 10) and support one unique gear marking color and continued effort to refine marking (Exhibit 9).

Recommendation

Commission staff: Consider the Department's recommended options at the adoption hearing for soak time (36 hours) and gear marking color (orange).

Exhibits

1. [Staff summary from April 17-18, 2024 Commission meeting \(for background purposes only\)](#)
2. [Initial statement of reasons](#)
3. [Noticed regulatory language](#)
4. [Department memo with recommendations, received June 6, 2024](#)
5. [Email from Mary Alice Lorio, received April 23, 2024](#)
6. [Email from the office of Assemblymember Steve Bennett, received May 30, 2024](#)
7. [Email from Cayla Salvador, received June 5, 2024](#)
8. [Email from Sal Martinovich, example of emails from various commenters, received June 5-6, 2024](#)

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9. [Email from Scott Webb on behalf of multiple non-governmental organizations, received June 6, 2024](#)
10. [Email from Douglas McCauley on behalf of several scientists, received June 6, 2024](#)

Motion (N/A)

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3. Commercial California Halibut and White Seabass Set Gill Net

Today's Item

Information

Action

Consider authorizing publication of notice of intent to amend regulations regarding set gill net service interval, gear marking and mesh depth in the California halibut and white seabass set gill net fisheries.

Summary of Previous/Future Actions

- | | |
|--|---------------------------|
| • Marine Resources Committee (MRC) vetting | 2022 – 2023, various; MRC |
| • MRC discussion and recommendation | November 16, 2023; MRC |
| • Today's notice hearing | April 17-18, 2024 |
| • Discussion hearing | June 19-20, 2024 |
| • Adoption hearing | August 14-15, 2024 |

Background

California's commercial set gill net fisheries are governed by state law and regulations set by the Commission; these fisheries utilize distinct net types: a larger mesh (minimum 8.5 inches) for targeting California halibut, and a smaller net (minimum 6 inches) for targeting white sea bass. Both fisheries are inherently multi-target, but also catch non-targeted species as bycatch. Bycatch is discarded due to size, sex, legality, and/or marketability. The regulations being proposed today focus on improving bycatch management.

The impetus for the proposed regulations stems from a bycatch evaluation specifically focused on the California halibut fishery, which is part of the Department's broader California halibut fishery management review referred to MRC by the Commission in 2020. The Department's bycatch evaluation, guided by the Marine Life Management Act (MLMA), involved collaborating with research partners, Commission staff, industry representatives, and non-governmental organizations. The multi-year process aimed to assess the "acceptability" of bycatch in the California halibut set gill net fishery based on legal considerations, sustainability threats, impacts on other fisheries, and ecosystem effects, consistent with the MLMA. The process is outlined in the *2018 Master Plan for Fisheries, A Guide for Implementation of the Marine Life Management Act*.

The proposed regulations represent the culmination of a four-step evaluation process, leading to developing management measures to address bycatch deemed unacceptable in the California set gill net fishery and to improved data collection efforts. MRC served as a public forum that facilitated robust stakeholder discussions throughout 2022 and 2023, addressing data analyses and interpretations, information gaps, and potential solutions for bycatch concerns (see exhibits 1 and 2 for more details). The MRC recommendation for this initial regulatory phase was approved by the Commission in December 2023, with the understanding that the Department continues to explore longer-term management options.

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Proposed Regulations

The proposed regulations, as detailed in exhibits 3-6, would add a new Section 174.1 and serve as an initial phase of management measures in the California set gill net fishery. The proposal aims to reduce bycatch and fill data gaps through improved data collection with three elements: A net service interval, gear marking, and a maximum net height.

1. Establish a net service interval for checking or raising set gill nets (also known as *soak time*). Currently there is no requirement in regulation limiting how long gill nets are left unattended, which can affect the survival rate of discarded fish, and the survival rates of sharks and other elasmobranchs. A service interval range of 24 to 48 hours is proposed, with provisions for flexibility in complying during unsafe weather, catastrophic events, or undue hardship, and for determining net abandonment. The Commission would select the final service interval before or at the adoption hearing.
2. Require set gill net permittees to mark gear by incorporating a 1-inch wide, 1-foot-long colored nylon strap weaved into the existing head rope every 20 fathoms. In the event of entanglement with marine life, this marking will clearly identify the gear as being from the California set gill net fishery. Three color options are included to provide opportunity for input from fishermen and manufacturers; the Commission would select the required color(s).
3. Establish a maximum net height (also known as *mesh depth*) for both California halibut and white seabass set gill nets. Current law establishes specific dimensions for mesh size and net length for the California halibut fishery, as well as a minimum mesh size for the white seabass fishery, but does not establish requirements for net height in either fishery. The proposed maximums of 25 meshes deep for California halibut and 50 meshes deep for white seabass are anticipated to reduce bycatch and prevent the expansion of set gill net gear height.

Today the Department will present an overview of the proposed regulations and rationale for each (Exhibit 7).

Significant Public Comments (N/A)

Recommendation

Commission staff: Authorize publication of a notice of intent to amend regulations as recommended by the Department and MRC. Request that the Department provide a recommendation for soak time and gear marking color at the discussion hearing.

Committee: Authorize publication of a notice of intent to amend regulations with a range for the required service interval of 24 to 48 hours.

Department: Authorize publication of a notice of intent to amend regulations with a required service interval range of 24 to 48 hours and three options for gear marking colors as described in the draft initial statement of reasons (ISOR; Exhibit 4).

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Exhibits

1. Staff summary from November 16, 2023 MRC meeting (*for background purposes only*; exhibits for the item are available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=216813&inline>)
2. Staff summary from March 19, 2024 MRC meeting (*for background purposes only*)
3. Department memo transmitting draft ISOR, received April 9, 2024
4. Draft ISOR
5. Draft proposed regulatory language
6. Draft economic and fiscal impact statement (Std. 399)
7. Department presentation

Motion

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to add Section 174.1 related to commercial California halibut and white seabass set gill nets, with a required service interval range of 24 to 48 hours and three options for gear marking color as discussed today. The Commission requests that the Department provide a recommendation for soak time and gear marking color at the discussion hearing for the rulemaking.

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Add Section 174.1
Title 14, California Code of Regulations
Re: Set Gill Net Service Interval, Gear Marking and Mesh Depth

I. Date of Initial Statement of Reasons:

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing:

Date: April 17-18, 2024

Location: San Jose

(b) Discussion Hearing:

Date: June 19-20, 2024

Location: Mammoth Lakes

(c) Adoption Hearing:

Date: August 14-15, 2024

Location: Fortuna

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR).

The state of California manages the commercial set gill net fishery. The Department of Fish and Wildlife (Department) monitors the current 91 set gill net permits that are issued, of which 34 were active in the past year. The number of set gill netters has declined over time with increasing restrictions. From 1985-1990s there was a series of depth and area general gill net bans throughout northern California that limited all gill net fishing south of Point Conception. In 2000, an emergency gill net closure limited the use of all gill nets to federal waters south of Point Arguello in Santa Barbara County. In 2002, the gill net closure in northern California was made permanent. In 1994, Proposition 132 established the Marine Resource Protection Zone which banned all gill nets in nearshore waters. This banned gill nets within 3 miles of the mainland and 1 mile or 70 fathoms, whichever is less, surrounding the Channel Islands.

There are two main types of set gill nets, 8.5 minimum mesh which primarily targets California halibut (halibut), and 6-inch minimum mesh which primarily targets white seabass. Set gill nets have the potential to result in bycatch, where fish or other marine life taken in a fishery are not targeted and may be discarded because they are of an undesirable species, size, sex or quality or because they are not legal to take. "Acceptable bycatch" considers legality of take, potential threat to sustainability, impacts to other fisheries and the ecosystem (Department, 2018). Pursuant to the Marine Life Management Act (MLMA), over the past several years the Department has worked in coordination with research partners, Fish and Game Commission (Commission) staff, industry representatives, and the non-government organization (NGO) community to complete a four-step process for determining whether the amount and type of

bycatch are considered “acceptable” (Fish and Game Code (F&G Code) Section 7085). Step 4 of this bycatch evaluation is to develop management measures to address unacceptable bycatch and to improve data collection for the California set gill net fishery (Department, 2018). Subsections (a) through (c) of Section 174.1 outlined in this regulatory proposal are a direct result of this process, and an initial phase of regulations aimed to reduce bycatch in the California set gill net fishery.

CURRENT REGULATIONS

Current laws governing set gill nets are as follows:

Section 174 describes the permit required to use gill or trammel nets for commercial purposes, including qualifications, renewal, keeping records, conditions, revocations, and exemptions (implements F&G Code Section 8682). There are currently no service interval regulations for set gill nets.

Current gear marking regulations state set gill nets must be marked at both ends with buoys displaying fisherman’s identification number and specify the distance between markers shall not exceed 45 fathoms (F&G Code Section 8601.5).

Current laws specify that set gill nets with mesh size of not less than 8.5 inches may be used to take California halibut (F&G Code Section 8625(a)), and gill nets with meshes of a minimum length of 6 inches may be used to take white seabass (F&G Code Section 8623(d)).

PROPOSED REGULATIONS

Subsection 174.1(a)

Service interval is the amount of time that fishing gear remains in the water, between when it is first set and when it is retrieved. Service intervals vary among fisheries and are dependent on the target species, the specifications of the fishing gear, and the time it takes to service the gear and bring it aboard.

The Necessity of a Set Gill Net Service Interval Regulation

Currently, the California set gill net fishery does not have a maximum service interval defined in regulation, meaning gill netters can leave their nets in the water for any amount of time. Currently 72% of gill net logs report a 24 hour or less soak time, 23% report a 37–48-hour soak time and only 3% report over 56 hours (Figure 1). When asked during fleet outreach efforts, gill netters stated that they base the amount of time they soak their nets on how active fishing is. When fishing is slow, they will leave their nets out for 2 days, as their catch increases and it is a savings as fuel costs are cut in half.

Establishing a service interval duration has the potential to reduce bycatch impacts on some species, specifically discard mortality of sensitive species such as elasmobranchs. With a 24 hour or less soak time, 80% of all finfishes released are alive (except mackerel since they are an uncommon species with high discard mortality that skews the data- 53% with mackerel included), and 87% of all released elasmobranchs are alive (Figure 2). This mortality rate increases with longer service intervals, with 41% of finfish and 50% of elasmobranchs released alive with soak times over 56 hours. However, there is an increase in the number of halibut

caught in nets soaked over 24 hours (Figure 3), so allowing a longer soak time increases catch of halibut. Comparatively, the same trend is not seen in white seabass with the highest numbers being caught in 24 hour-soaked nets.

Proposed language in 174.1(a) for a service interval includes a range to be decided through the Commission public noticing process of 24 to 48 hours. The flexibility of allowing up to 48 hours between servicing nets would allow for fishers to determine the best time to pull nets depending on conditions and target species while also allowing for decreased fuel costs. During outreach efforts gill netters have voiced concern that a strict 24-hour service interval would be challenging to comply with given it takes longer to retrieve nets than to set them. Selecting a service interval between 25-35 hours could benefit fishers by providing reasonable time to pull their nets and still reduce bycatch mortality. It has been expressed that a 36-hour service interval is not reasonable to enforce as most gill netters deploy nets in the morning so retrieval would be in the middle of the night. The mortality rate does not substantially change in the 25–36-hour range for either finfishes or elasmobranchs. Additionally, the highest number of halibut per trip is reported from 25–36-hour range trips.

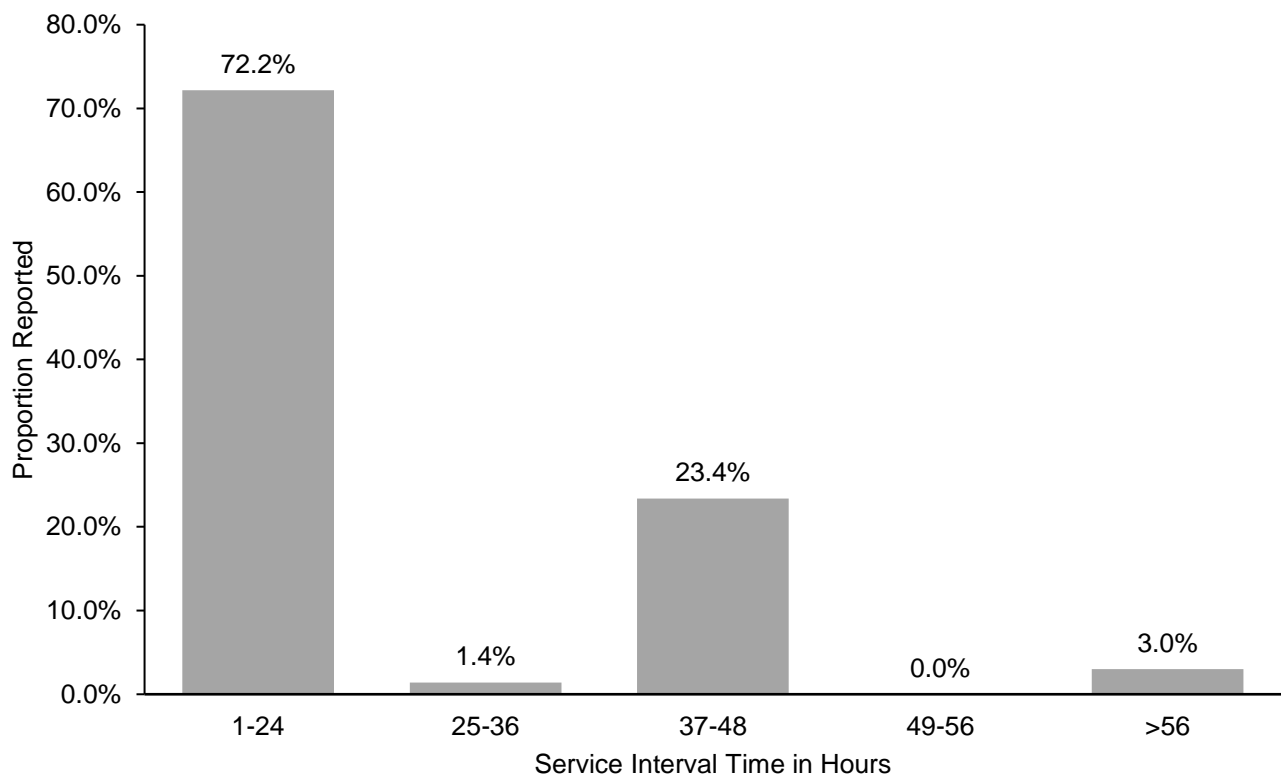


Figure 1. Range of service interval times and frequency reported in CDFW Gillnet Logs (2007-2022).

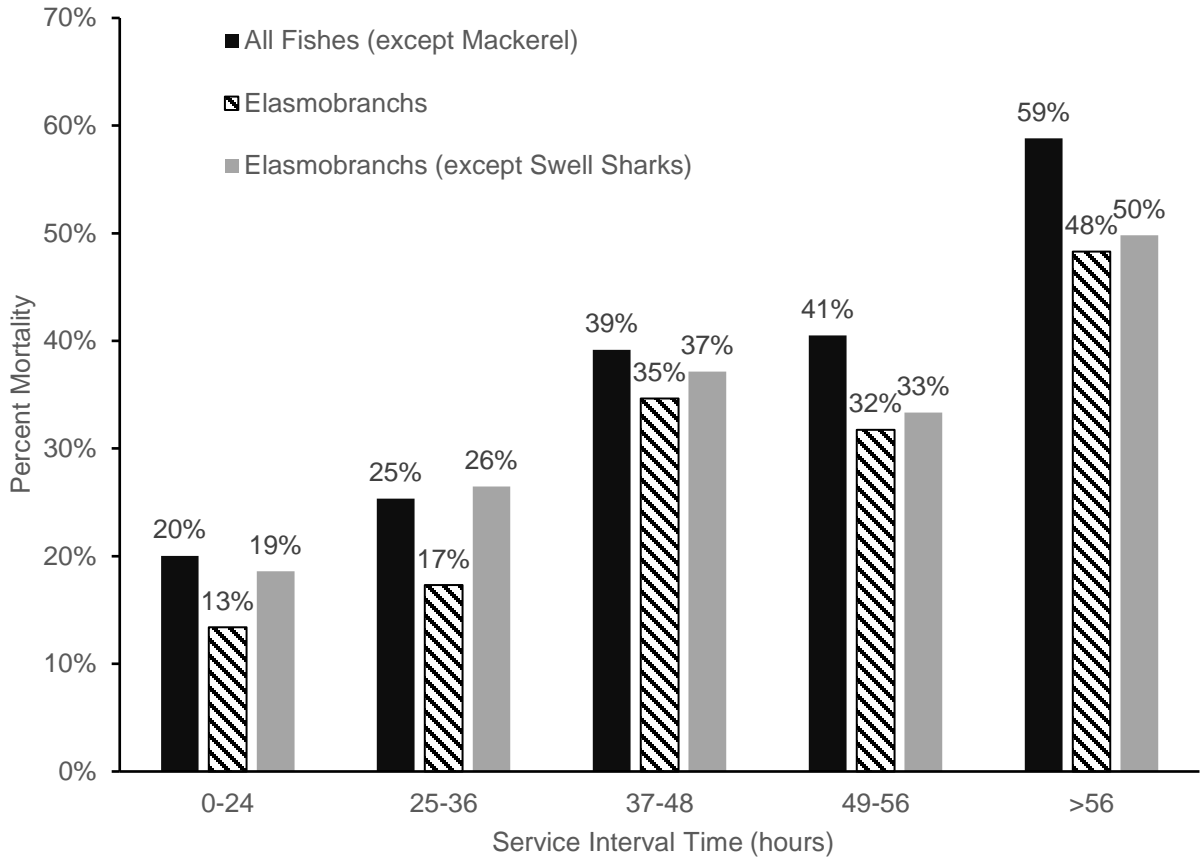


Figure 2. Percent mortality of species groups by service interval time based on federal observer data (Years- 2007, 2010, 2013, 2017). Mackerel are not commonly captured in gill nets and are excluded to prevent their high discard mortality skewing the rate. Elasmobranchs are shown with and without swell sharks as they have a high survivability rate compared to other shark species.

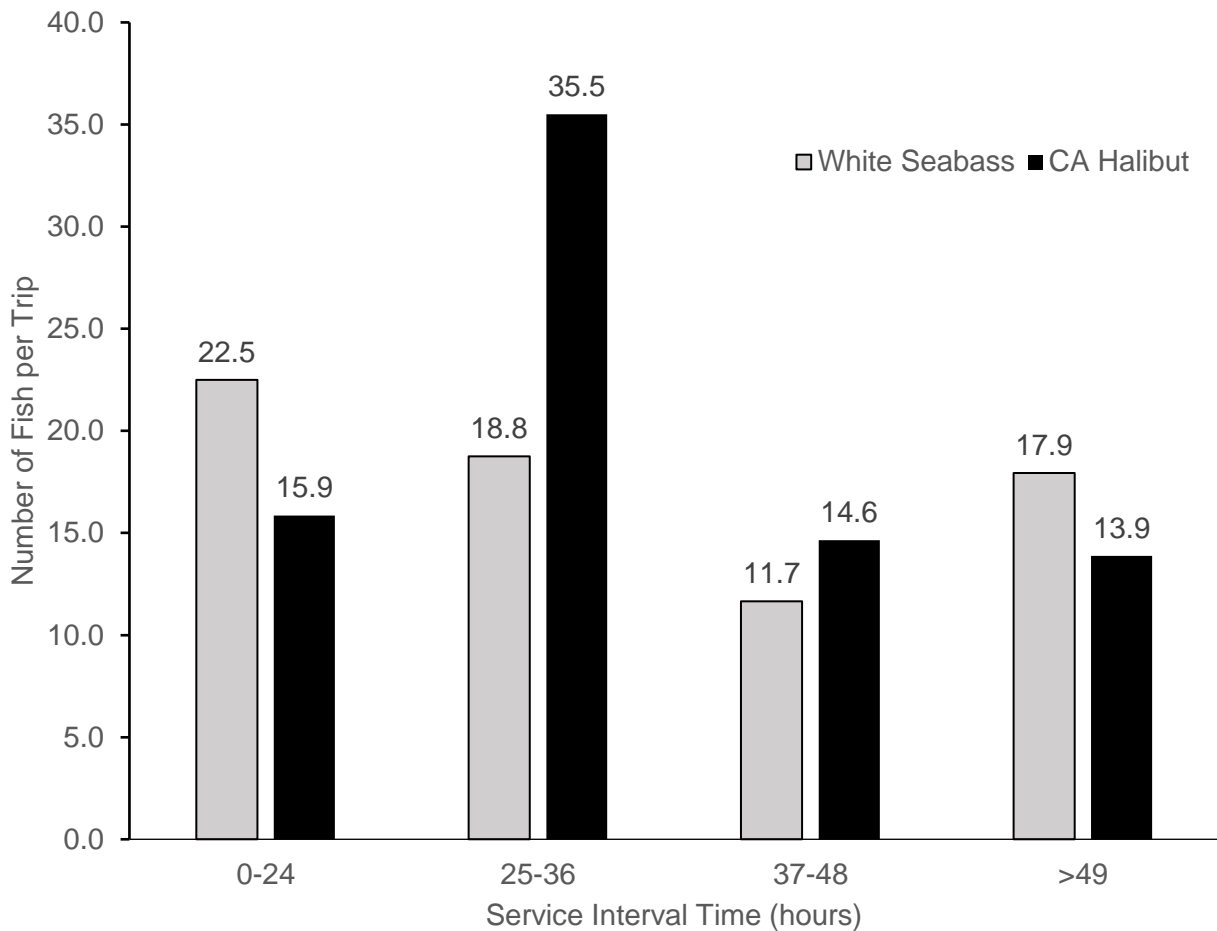


Figure 3. Number of California halibut and white seabass per soak time reported in CDFW Gillnet Logs (2007-2022).

Enforcement of the service interval regulation will be challenging without some type of electronic monitoring informing law enforcement officers of the location of gill net vessels when setting or retrieving nets. Monitoring service intervals through fishing activity logs is limited and cannot be verified unless enforcement is present or observing at all times. Electronic logbooks will only provide an honor-based system of reporting service intervals. Many of the vessels have the federal VMS system, but this system is only required for those landing or retaining groundfish and not for landing halibut or white seabass caught in gill nets. Electronic monitoring is anticipated to be pursued as part of a second phase of management improvements aimed to reduce bycatch in the California set gill net fishery but is not being included in this rulemaking.

Subsection 174.1(a)(1) and (2)

When implementing a service interval, it is important to include exemptions for the cases where a permittee might not be able to comply with the regulation due to undue hardship, or unsafe weather conditions or catastrophic events.

174.1(a)(1) - Due to the strict service interval time during outreach efforts, permittees have requested an allowance for alternative compliance where they may grant another permittee permission to remove their nets from the water if they are facing catastrophic events such as

vessel mechanical failure or debilitating illness. The process to request the Department's License and Revenue Branch to approve such an exemption and waiver allows the opportunity for a net to be serviced by another permittee. The issued waiver may provide flexibility for time constraints, landing prohibitions, or other conditions the Department may deem pertinent. This provision is necessary to provide flexibility for the permittee to still comply with the service interval for non-weather related unforeseen circumstances.

174.1(a)(2) - Law enforcement has expressed that email is the most efficient way for a permittee to notify the Department of unsafe weather conditions at sea. An email specific to set gill net unsafe weather exemption notifications has been set up (gillnetnotifications@wildlife.ca.gov) and it is required that permittees must send a message prior to the end of the service interval stating the reason for delay and the anticipated date and time of retrieval. Proposed subsection 174.1(a)(2)(B) provides that unsafe weather conditions include the issuance of a Small Craft Advisory by the National Weather Service, or issuance of another advisory that indicates winds of over 25 knots. This provision is necessary to provide flexibility for the permittee to still comply with the service interval for unforeseen or changing weather conditions.

Subsection 174.1(a)(3)

When set gill nets are not retrieved or are not marked with identification, they are considered abandoned. Proposed subsection 174.1(a)(3) includes a timeframe of 7 consecutive days for determination of abandonment without servicing, cleaning, or otherwise raising the net if there is no approved exemption pursuant to 174.1(a). Additionally, a set gill net is abandoned if the valid, required gear markings, per F&G Code Section 8601.5 and Title 14, CCR, Section 174.1(b) are not present or legible on the set gill net. The timeframe of 7 consecutive days was chosen as it provides ample time for Department staff to determine whether any permittee has been identified as the responsible party for the net. This subsection is necessary to establish a time limit for the Department's Law Enforcement Division to determine when set gill net gear is no longer in use and to provide a means for citation to any identified permittee, if abandonment is documented, consistent with F&G Code Section 8630.

Subsection 174.1(b)

Gear marking has been identified as an important tool to address concerns related to unidentified set gill net gear in marine mammal entanglements. While there are current gear marking regulations for set gill nets, mandating buoys with the fisher's identification number every 45 fathoms (F&G Code Section 8601.5), it does not clearly identify the set gill nets are from California fisheries.

The Necessity of a Gear Marking Regulation

In 2022, there were reports of 2 humpback whales and 1 gray whale entangled with unidentified gill nets off the California coast (NOAA 2022). Through outreach with the California set gill net fleet, an idea to incorporate a 1- inch wide, 1- foot long colored nylon strap weaved into the existing head rope was developed (Figure 4). Two set gill netters have trialed this marking system and have found no issues with backlash or entanglement, and have confirmed the markings can be added to existing gear while nets are being deployed preventing the economic burden of necessitating a break from fishing to install gear markings.

- Proposed language in 174.1(b) for marking of the headrope includes three options of colors to be decided through the Commission public noticing process of red, orange, or yellow, or possibly all of these. Providing three color options through this process would allow for permittee input on the final color or flexibility in all three colors, considering manufacturing availability of such nylon straps. These colors are necessary options to provide maximum visibility in ocean conditions.
- Proposed language in 174.1(b) for marking interval is proposed for 20 fathoms based on discussions with NOAA, industry representatives, stakeholders, or other organizations. Initial outreach with set gill net permittees indicates that this interval marking would be reasonable in terms of the labor it would take to add the markings to the net. Mandating this additional set gill net marking system to be displayed every 20 fathoms will allow for confirmation that a set gill net is from the California set gill net fishery if entangled.



Figure 4. Images of proposed gill net gear marking system submitted by gill netter trialing the system on their net. Individual fisher's identification number blurred out to protect identity.

During outreach with the fleet, they have requested to be given a year to update their gear with gill net markings to be in compliance with the proposed regulations. The planned compliance date would be January 1, 2026, given the overall planned regulation effective date of January 1, 2025.

Subsection 174.1(c)

There is currently no specification on the maximum net height (also known as mesh depth) for set gill nets. Fish and Game Code establishes specific dimensions for mesh size and net length for the California halibut fishery (F&G Code Section 8625(a)) and a minimum mesh size for the white seabass fishery (F&G Code Section 8623(d)). However, there are no standards for the maximum depth for either California halibut or white seabass.

The Necessity of a Mesh Depth Regulation

During bycatch evaluation outreach efforts with the set gill net fleet, it was brought up that standardizing net height for set gill nets is a management measure that has a potential to

reduce bycatch and prevent the expansion of set gill net gear. For the California halibut fishery, a maximum of 25 meshes deep, and for white seabass, a maximum of 50 meshes deep has received support from industry representatives. According to the Federal observer program observations that included mesh depth parameters on set gill net sets observed from 2006-2017, 91% of halibut targeted gill nets fish with nets a maximum of 25 mesh panels deep, and 93% of white seabass targeted nets fish with nets a maximum of 50 mesh panels deep.

(b) Goals and Benefits of the Regulation

The MLMA is intended to ensure the conservation, sustainable use, and restoration of California's marine living resources. In 2019, the Department assessed the state's fisheries under the 2018 Master Plan for Fisheries framework (Department, 2018). A prioritization process identified halibut as a species in need of management attention due to potential risks to bycatch species (including sub legal-sized halibut) and from a changing climate. The three proposed regulations are a direct result of the MLMA process, and the first phase of regulations aimed to reduce bycatch in the California set gill net fishery.

The benefits of the proposed regulation change include, but are not limited to:

- Opportunity to create a positive conservation impact in southern California.
- Imposing soak time restrictions that reduce the mortality of both discarded elasmobranchs and finfishes in the set gill net fishery.
- Reducing discarded bycatch in the set gill net fishery.
- Creating a gear marking system that will clearly identify where set gill nets are from if entangled on marine mammals.
- Industry supported and trialed gear marking system increases chances of success and prevents undue economic burden to the set gill net fleet.
- Preventing the expansion of set gill net fishing gear.
- Opportunity to be responsive to stake holder's feedback. The proposed regulations were created in response to constituents' comments throughout the California Halibut Scaled Management Process.

(c) Authority and Reference Sections from Fish and Game Code for Regulation

Authority: 7085, 8682

Reference: 1050, 1700, 7056, 8026, 8568, 8573, 8574, 8601, 8601.5, 8604, 8609, 8623, 8625, 8626, 8630, 8680, 8681

(d) Specific Technology or Equipment Required by Regulatory Change:

This regulation will require set gill netters to purchase nylon straps for gear marking.

(e) Identification of Reports or Documents Supporting Regulation Change

Evaluating Bycatch in the California Halibut Set Gill Net Fishery. CDFW 2023. Available from: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213366&inline>

California Department of Fish and Wildlife. 2018. 2018 master Plan for Fisheries: A guide for Implementation of the Marine Life Management Action. Available from: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=159222&inline>

California Department of Fish and Wildlife. 2023. California Halibut Scaled Management Process. Available from: <https://wildlife.ca.gov/Conservation/Marine/CA-Halibut-Scaled-Management>

NOAA Fisheries. 2022. West Coast Whale Entanglement Summary. [2022 West Coast Whale Entanglement Summary \(noaa.gov\)](https://www.noaa.gov/resources/press/releases/2022/08/2022-west-coast-whale-entanglement-summary)

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

- Invites were sent to the entire fleet, 104 gill net permit holders, for two fleet-only information meeting options:
 - November 9, 2023 at the Santa Barbara Harbor
 - November 15, 2023 at the San Diego field office for the Department of Fish and Wildlife
- November 16, 2023, Marine Resources Committee meeting, San Diego
- March 19, 2024, Marine Resources Committee meeting, San Clemente
- Contacted active gill netters by phone on multiple occasions to get their input on the following topics:
 - Rationale for current gill net soak times
 - Reasonable distance between proposed gear marking system
 - Definition of net abandonment

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives to a regulatory change were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect. Imposition of performance standards is not a reasonable alternative to these specifically prescribed procedures because management measures require action to be taken to address unacceptable bycatch, and a service interval would reduce bycatch. Similarly for mesh depth, specifications on mesh depth would mean improved efficiency in targeting halibut and white seabass, while reducing bycatch of other species. Alternative markings were voluntarily trialed including a colored tracer line weaved into the headrope, but during outreach efforts with the fleet it was decided the colored nylon strap was the most cost effective and efficient.

(b) No Change Alternative

Without the proposed changes, the outstanding issues concerning unacceptable bycatch in the set gill net fishery would remain unaddressed. The Department would be unable to meet its objectives under the 2018 Master Plan for Fisheries or requirements of the MLMA.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no

mitigation measures are needed.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because this action will not affect the demand for goods and services related to the set gill net fisheries within the state.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The Commission does not anticipate any benefits to the health and welfare of California residents, or worker safety. The Commission anticipates benefits to the State's environment by sustainably managing California's marine resources.

(c) Cost Impacts on a Representative Private Person or Business

The Commission is aware of the cost impacts that a representative private business would necessarily incur in reasonable compliance with the proposed action. Set gill net permit holders would have some additional gear-marking time and material costs and may have to undertake some additional vessel travel time to monitor nets if they do not already adhere to the proposed maximum gill net service interval (see STD399 and Addendum).

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Department Law Enforcement Division (LED) staff anticipates a temporary increase in patrol boat time until the set gill net fleets adjust to the proposed regulations (see STD399 and Addendum).

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The Commission does not anticipate any impacts on the creation or elimination of jobs within the state because this proposed action should allow for ongoing fishing activity similar to current and historical levels which would not affect the demand for jobs.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commission does not anticipate any impacts on the creation of new business or the elimination of existing businesses within the state because this proposed action should allow for ongoing fishing activity similar to current and historical levels which would not affect the demand for goods and services related to the set gill net fishery within the state.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The Commission does not anticipate any impacts on the expansion of businesses currently doing business within the state because this action will not affect the demand for goods and services related to the set gill net fisheries within the state.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

The Commission does not anticipate impacts on the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety

The Commission does not anticipate benefits to worker safety in California.

(f) Benefits of the Regulation to the State's Environment

The Commission anticipates benefits to the state's environment through compliance with the MLMA and the 2018 Master Plan for Fisheries framework working to ensure the conservation, sustainable use, and restoration of California's marine living resources. The three proposed regulations are a direct result of the MLMA process, and the first phase of regulations aimed to reduce bycatch in the California set gill net fishery. These regulations aim to reduce discarded bycatch in the set gill net fishery, impose soak time restrictions that reduce the mortality of both discarded elasmobranchs and finfishes, and creating a gear marking system that will clearly identify where set gill nets are from, if entangled on marine mammals.

(g) Other Benefits of the Regulation

Informative Digest/Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR).

The state of California manages the commercial set gill net fishery. The Department of Fish and Wildlife (Department) monitors the existing 91 set gill net permits that are issued, of which 34 were active in the past year. There are two main types of set gill nets: 8.5 minimum mesh which primarily targets California halibut, and 6-inch minimum mesh which primarily targets white seabass. Gill nets have the potential to result in bycatch, where fish or other marine life taken in a fishery are not targeted and may be discarded as they are not legal to take.

“Acceptable bycatch” considers legality of take, potential threat to sustainability, impacts to other fisheries and the ecosystem. Pursuant to the Marine Life Management Act (MLMA), over the past several years the Department has worked in coordination with research partners, Fish and Game Commission (Commission) staff, industry representatives, and the non-government organization (NGO) community to complete a four-step process to determine whether the amount and type of bycatch are considered “acceptable” (Fish and Game Code (F&G Code) Section 7085). Step 4 of this bycatch evaluation is to develop management measures to address unacceptable bycatch and to improve data collection for the California set gill net fishery.

Proposed subsections (a) through (c) of Section 174.1 outlined in this regulatory proposal are a direct result of the bycatch evaluation process, and an initial phase of planned regulations aimed to reduce bycatch in the California set gill net fishery. The proposed regulations would establish a service interval for checking or raising set gill nets, require marking of gill net gear to address concerns related to unidentified set gill net gear in marine mammal entanglements, and define mesh depth for California halibut or white seabass to potentially reduce bycatch and prevent the expansion of set gill net gear.

Subsection 174.1(a). Proposes a service interval includes a range to be decided through the Commission public noticing process of 24 to 48 hours. The flexibility of allowing up to 48 hours between servicing nets would allow for fishers to determine the best time to pull nets depending on conditions and target species while also allowing for decreased fuel costs.

- Subsections (a)(1) and (a)(2) consider exemptions for the cases where a permittee might not be able to comply with the regulation due to unsafe weather conditions or catastrophic events. An allowance for alternative compliance may grant another permittee permission to remove their nets from the water if they are facing catastrophic events, such as vessel mechanical failure or debilitating illness.

Subsection 174.1(a)(3). Includes a timeframe of 7 consecutive days for consideration of abandonment without servicing, cleaning, or otherwise raising the net if there is no approved exemption pursuant to 174.1(a). Additionally, a set gill net is abandoned if the valid, required gear markings, per F&G Code Section 8601.5 and subsection 174.1(b) are not present or legible on the set gill net.

Subsection 174.1(b). Proposes a requirement for permittees to incorporate a 1- inch wide, 1-foot-long colored nylon strap weaved into the existing head rope. A proposed marking interval for the straps along the headrope is proposed for 20 fathoms based on discussions with

NOAA, industry representatives, stakeholders, or other organizations. Initial outreach with set gill net permittees indicates that this interval marking would be reasonable in terms of the labor it would take to add the markings to the net. Mandating this additional set gill net marking system to be displayed every 20 fathoms will allow for confirmation that a set gill net is from the California set gill net fishery if entangled.

Subsection 174.1(c). Current law establishes specific dimensions for mesh size and net length for the California halibut fishery (F&G Code Section 8625(a)) and a minimum mesh size for the white seabass fishery (F&G Code Section 8623(d)). However, there are no standards for the maximum net height (also known as mesh depth) for either California halibut or white seabass. A standard net height for set gill nets is a management measure that has a potential to reduce bycatch and would prevent the expansion of set gill net gear. For the California halibut fishery, a maximum of 25 meshes deep is proposed and for white seabass, a maximum of 50 meshes deep is proposed.

Benefit of the Regulations:

The Marine Life Management Act (MLMA) is intended to ensure the conservation, sustainable use, and restoration of California's marine living resources. In 2019, the Department assessed the state's fisheries under the 2018 Master Plan for Fisheries framework. A prioritization process identified halibut as a species in need of management attention due to potential risks to bycatch species (including sub legal-sized halibut) and from a changing climate. The three proposed regulations are a direct result of the MLMA process, and the first phase of regulations aimed to reduce bycatch in the California set gill net fishery.

The benefits of the proposed regulation change include, but are not limited to:

- Opportunity to create a positive conservation impact in southern California.
- Imposing soak time restrictions that reduce the mortality of both discarded elasmobranchs and finfishes in the set gill net fishery.
- Reducing discarded bycatch in the set gill net fishery.
- Creating a gear marking system that will clearly identify where set gill nets are from if entangled on marine mammals.
- Industry supported and trialed gear marking system increases chances of success and prevents undue economic burden to the set gill net fleet.
- Preventing the expansion of set gill net fishing gear.
- Opportunity to be responsive to stakeholder's feedback.

The proposed regulations were created in response to constituents' comments throughout the California Halibut Scaled Management Process.

Consistency and Compatibility with Existing Regulations:

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the state Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to adopt regulations governing aspects of the commercial gill net industry (F&G Code Section 8682). No other state agency has the authority to adopt regulations governing the issuance of

gill net permits as necessary to establish an orderly gill net fishery. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has examined the CCR for other gill net regulations; therefore, the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Proposed Regulatory Language

Section 174.1, Title 14 CCR, is added to read:

§174.1. Set Gill Net Service Interval, Gear Marking and Mesh Depth

(a) Set Gill Net Service Interval: Every set gill net shall be raised, cleaned, serviced, and emptied at intervals not to exceed [24-48] hours, and no net shall be abandoned in the waters of this state.

(1) Undue Hardship Exemption – A permittee may request a waiver for exemption from the set gill net service interval requirement described in subdivision (a) if the permittee cannot comply due to a major mechanical failure or undue hardship resulting from circumstances beyond the control of the permittee.

(A) Waiver Request: The permittee shall request a waiver from the Department by sending an email to LRBCOMM@wildlife.ca.gov prior to the end of the service interval. The permittee's email request must include all of the following in order to be considered by the Department: (1) the permittee's general gill net permit number, (2) circumstances explaining the undue hardship or mechanical failure that prevent the permittee from complying, (3) the retrieving individual's general gill net permit number, and (4) coordinates indicating location of the nets. The permittee shall comply with the set gill net service interval unless the Department grants the waiver request.

(B) Waiver Compliance: All permittees shall follow all terms and conditions of the waiver. The waiver may include conditions such as time restrictions, landing prohibitions, or any other conditions the Department deems necessary. The waiver shall be null and void upon violation of the waiver terms and conditions. A copy of the waiver approved by the Department shall be onboard the retrieving vessel.

(2) Unsafe Weather Condition Exemption - Unsafe Weather Conditions: Upon notification to the Department, a permittee may be exempt from the set gill net service interval requirement described in subdivision (a) due to unsafe weather conditions at sea. The permittee shall raise, clean, and service all set gill nets for which they claim an exemption within 24 hours after the end of the unsafe weather conditions.

(A) Department Notification: The permittee shall notify the Department of the unsafe weather conditions by sending an email to gillnetnotifications@wildlife.ca.gov prior to the end of the service interval. The permittee's email request shall describe (1) the unsafe weather conditions which meet the definition below and (2) the affected coastal waters zone.

(B) Unsafe Weather Conditions Defined: Weather conditions at sea are considered unsafe if the National Weather Service issues a Small Craft Advisory or other advisory predicting sustained winds greater than 25 knots. The Small

Craft Advisory or other qualifying advisory shall apply to the same coastal waters zone where a set gill net is located, or the same coastal waters zone where the vessel must transit to reach a set gill net. The Small Craft Advisory or other qualifying advisory must also have been declared on the same calendar day that the set gill net service interval ends.

(3) Abandoned Set Gill Nets - It is unlawful to abandon a set gill net. Abandoned set gill nets may be seized by any person authorized to enforce these regulations or their authorized agent. A set gill net is abandoned if:

(A) a permittee leaves the set gill net in the water for 7 consecutive days and during that time fails to raise, clean, service, and empty the set gill net without an approved exemption or

(B) the valid, required gear markings are not present or legible on the set gill net.

(b) Gear marking: In addition to the requirements in Fish and Game Code Section 8601.5, starting January 1, 2026, all set gill nets shall be marked with a colored [red, orange and/or yellow] 1-inch-wide nylon strap and shall be woven into the corkline at intervals not to exceed every 20 fathoms. Each strap must contain the fisherman's identification number and hang a minimum of 1 foot in length to uniquely identify the gear as a California set gill net.

(c) Mesh depth: Gill nets used to take white seabass with meshes of a minimum length of six inches shall be no more than 50 meshes deep. Gill nets used to take California halibut with meshes of a minimum length of 8.5 inches shall be no more than 25 meshes deep.

Authority: Sections 7085 and 8682, Fish and Game Code.

Reference: Sections 1050, 1700, 7056, 8026, 8568, 8573, 8574, 8601, 8601.5, 8604, 8609, 8623, 8625, 8626, 8630, 8680 and 8681, Fish and Game Code.

Memorandum

Date: June 5, 2024

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Recommendations for the June 19-20, 2024, Fish and Game Commission Meeting for the Proposed Addition of Section 174.1 to Title 14, California Code of Regulations Re: Commercial California Halibut and White Seabass Set Gill Net Service Interval, Gear Marking and Mesh Depth**

The California Department of Fish and Wildlife (Department) is providing recommendations specifically for the set gill net service interval and gear marking color regarding the proposed addition of Section 174.1 to Title 14, California Code of Regulations which is necessary to address potential bycatch concerns for the set gill net fishery. The proposed regulations establish a set gill net service interval, require gear marking to identify set gill nets from California, and establish mesh depth (net height) limits for take of white seabass and California halibut.

The Department recommends the following:

- 1) Service interval - The gill net service interval is the amount of time that fishing gear is in the water between when it is first set and when it is retrieved. Currently, the California set gill net fishery does not have a maximum service interval defined in regulation. The Department recommends a maximum service interval of 36 hours to reduce bycatch impacts to non-target species.
- 2) Gear marking color - In addition to the requirements already defined in Fish and Game Code Section 8601.5, gear markings are being proposed to uniquely identify set gill net gear from California. The proposed markings include a 1-inch nylon strap weaved into the headrope at intervals not to exceed 20 fathoms. Each strap must contain the fisherman's identification number and hang a minimum of 1 foot in length. After consulting with industry and assessing product availability, the Department recommends that an orange colored 1-inch nylon strap be used as the identifying color marker for set gill nets from California.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Marine Regional Manager at R7RegionalMgr@wildlife.ca.gov.

Melissa Miller-Henson, Executive Director
Fish and Game Commission
June 5, 2024
Page 2

The Department point of contact for this regulation should identify Environmental Scientist Miranda Haggerty. She can be reached at Miranda.Haggerty@wildlife.ca.gov.

cc: Chad Dibble, Deputy Director
Wildlife and Fisheries Division
Department of Fish and Wildlife

Craig Shuman, D. Env., Region Manager
Marine Region
Department of Fish and Wildlife

Kirsten Ramey, Env. Program Manager
Marine Region
Department of Fish and Wildlife

Dianna Porzio, Senior. Env. Scientist (Supervisor)
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Miranda Haggerty, Environmental Scientist
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David Thesell, Program Manager
Fish and Game Commission

Susan Ashcraft, Marine Adviser
Fish and Game Commission

David Haug, Analyst
Fish and Game Commission

California Set Gillnet Fishery

Mary Alice Lorio [REDACTED]

Tue 04/23/2024 06:53 PM

To:FGC <FGC@fgc.ca.gov>

Dear Director Sklar and the California Fish and Wildlife Commissioners.

I am extremely concerned about the amount of bycatch in the California Set Gillnet Fishery. Please consider this harmful bycatch as unacceptable and protect our marine life by eliminating setnets and substituting for hook and line in the halibut fishery.

Sea birds, marine mammals and especially sharks are caught and drowned in this harmful gear. The Soupfin shark (tope shark) is now considered to be Critically Endangered. Protected white sharks and others like soupfin (Tope) and blue sharks are unfortunately a common capture for the California Set Gillnets, and many of these sharks are discarded after being caught.

Seabirds can become entangled in the set gillnet fishery and often drown before being discarded overboard. With proper management, this is an avoidable consequence of this type of fishing gear.

There are more boats fishing for California halibut using less harmful and more targeted hook and line than those using setnets.

Thank you for your efforts on this matter, commissioners. Bycatch in set gillnets must be handled. Please declare this bycatch as unacceptably high as soon as possible.

Respectfully,

Mary Alice Lorio

[REDACTED]

[REDACTED]

STATE CAPITOL
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Assemblymember.Bennett@assembly.ca.gov



COMMITTEES
CHAIR: BUDGET SUBCOMMITTEE NO. 4 ON
CLIMATE CRISIS, RESOURCES, ENERGY,
AND TRANSPORTATION
BUDGET
ELECTIONS
EMERGENCY MANAGEMENT
WATER, PARKS AND WILDLIFE

May 30, 2024

Samantha Murray, President
California Fish and Game Commission
P.O. Box 944209 Sacramento,
CA 94244-2090

Dear President Murray and Members of the Commission,

Thank you for the work the Fish and Game Commission is doing through the Marine Life Management Act to prioritize and update the management of the set gillnet fishery. As a long time resident and elected official from the Ventura coast, I care deeply for the marine environment and ecosystem of the State. To that end, I urge the Commission to take strong measures regarding the set gillnet regulatory package.

Unintentionally caught and discarded marine life during gillnet fishing is an important issue to the people of my district. Therefore, I urge the Commission to require a 24-hour servicing window (weather permitting) to ensure that the high bycatch rates in this fishery do not result in unnecessary waste and death of marine life. A 24-hour service window, or soak time, encourages "best practices" of fishing with gillnets that are already occurring in the fishery.

Whale entanglements are a continuing issue in California that can be solved, in large part, by ensuring California fishing gear is distinctly marked. Gear-marking allows us to understand the source of these entanglements, and how we can improve and decrease the occurrences of these deadly entanglements. I urge the Commission to consider robust and unique gear-marking for this fishery during this regulatory process.

Finally, I support a strong commission regulatory package overall and continue to be interested in paving the way for better data collection strategies for this, and other state fisheries. I look forward to continuing to engage with the important work at the Commission and working with you all on future legislation to complement these efforts.

Sincerely,

Steve Bennett
Assemblymember, 38th District

Gillnets & Bycatch

Cayla Salvador [REDACTED]

Wed 06/05/2024 11:37 AM

To:FGC <FGC@fgc.ca.gov>

Dear Director Sklar and the California Fish and Wildlife Commissioners,

I am extremely concerned about the amount of bycatch in the California Set Gillnet Fishery. Please consider this harmful bycatch as unacceptable and protect our marine life by eliminating setnets and substituting for hook and line in the halibut fishery.

Sea birds, marine mammals and especially sharks are caught and drowned in this harmful gear. The Soupfin shark (tope shark) is now considered to be Critically Endangered. Protected white sharks and others like soupfin (Tope) and blue sharks are unfortunately a common capture for the California Set Gillnets, and many of these sharks are discarded after being caught.

Seabirds can become entangled in the set gillnet fishery and often drown before being discarded overboard. With proper management, this is an avoidable consequence of this type of fishing gear.

There are more boats fishing for California halibut using less harmful and more targeted hook and line than those using setnets.

Thank you for your efforts on this matter, commissioners. Bycatch in set gillnets must be handled. Please declare this bycatch as unacceptably high as soon as possible.

Only 39 estimated participants who fish with set gillnets are left, primarily targeting halibut and white sea bass. Sixty-four percent of animals caught with set gillnets are tossed overboard, translating to a conservative estimate of over 230,000 animals thrown overboard from 2007 to 2021, with over 50% dead before hitting the water.

Although commercial fish landings data indicate the number of discarded animals during this period could be as high as 2 million. Set gillnets catch 125 different species, and only 17 species are primarily kept and sold. Nearly three of every four sharks, rays, and skates caught are tossed overboard in the set gillnet fishery.

Set gillnets are the primary threat to juvenile great white sharks in their nursery grounds off California. White sharks play an important ecosystem role, and their population is still at low numbers. Like the

Sources

National Marine Fisheries Service. Accessed 2022. California Set Gillnet Observer Program, Observed Catch 2007-01-01 to 2017-12-31. Available: <https://media.fisheries.noaa.gov/2022-01/setnet-catch-summaries-2007-2010-2013-2017.pdf>

*observer data is recorded by number of animals

Oceana and The Turtle Island Restoration Network THE NET CONSEQUENCE: Impacts of Set Gillnets on California Ocean Biodiversity

https://seaturtles.org/wp-content/uploads/2023/04/CA_Bycatch_Report_FINAL_April2023.pdf

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Cayla Salvador

Artist & Educator

caylasalvador.com

6/19-20 MRC Meeting Agenda item 25

salifornia78

Wed 06/05/2024 08:29 PM

To:FGC <FGC@fgc.ca.gov>

Dear President Murray and Members of the Commission,

My name is Sal Martinovich. I have spearfished/fished/surfed/sailed/etc in California for all my life. I care deeply about protecting marine biodiversity.

I am writing to comment on agenda item 25; the set gillnet fishery. In my opinion, this is an outdated method of fishing with unacceptable levels of bycatch, particularly California Black Seabass, sharks, and rays. Outside of banning the practice completely, mandating the shortest possible soak time, as well as marking gear with uniquely colored lines, mesh, and floats is essential. But gillnet fishing should be illegal and looked at as a lesson learned. And left in the history books.

Thank you very much for your time and consideration.

Sal Martinovich

Sent from my iPhone

Public Comment for Item 25: June 20th Fish & Game Commission Meeting

Scott Webb <swebb@rri.org>

Thu 06/06/2024 04:18 PM

To:FGC <FGC@fgc.ca.gov>;Ashcraft, Susan [REDACTED]

Hi, Susan and Commission staff,

I want to submit the attached Sign-On letter for public comment under Item 25: Commercial California halibut and white seabass set gill net.

Thank you so much!

All the best,

Scott

--

Scott Webb (he/him)
Director of Advocacy & Engagement
Resource Renewal Institute



Samantha Murray, President
 California Fish and Game Commission
 P.O. Box 944209,
 Sacramento, CA 94244-2090

June 6, 2024

Item 25: Commercial California halibut and white seabass set gill net

Dear President Murray and Members of the Commission:

We, the undersigned organizations and businesses, support the regulatory package being discussed at today's hearing to improve the management of the Southern California set gillnet fishery. Addressing the unintended catch and discarding of dead or injured marine life is a top priority for California, and we appreciate the extensive work the Commission and CDFW have put into fulfilling the state's commitment to protecting marine biodiversity. We urge the California Fish and Game Commission and the California

Department of Fish and Wildlife (CDFW) to implement the strongest versions of these measures to reduce bycatch and mortality associated with set gillnet fishing.

The only regulatory measure that has this ability to meaningfully reduce bycatch is through regulating soak time. We urge the Commission to set a strong maximum soak time that will reduce bycatch mortality in this fishery. Logbook data provided by the Department of Fish and Wildlife, as well as peer-reviewed scientific research specific to California's set gillnet fishery, indicates a 24-hour maximum soak time would substantially reduce bycatch mortality, particularly for sensitive species such as sharks and rays while aligning with current fishing trends in the fleet. Self-reported commercial gillnet logbook data also shows the majority of the fleet already reports less than 24 hours of soak time.

Establishing active gear-tending requirements ensures that fishermen monitor and manage their gear and is consistent with requirements in other fixed gear fisheries off California and elsewhere. Substantial evidence demonstrates that soak times longer than 24 hours drastically decrease the survivorship of all species, decrease the quality of the target catch, and increase entanglement and depredation impacts. We ask the Commission to adopt a 24-hour maximum soak time, with weather and extraneous circumstances exceptions.

We support the proposed improved gear marking to require unique tracer lines on set gillnet headropes as a first step that can reasonably be accomplished in the near term. However unique gear marking in the set gillnet fishery should be coordinated with a statewide gear marking approach, particularly Dungeness Crab, including uniquely colored lines, mesh, and floats. Therefore, we suggest the Commission adopt the proposed improvements with a single fleet-wide tracer line color in the near-term and continue to refine set gillnet gear marking requirements in the future.

We are grateful to the Commission and CDFW for developing a suite of regulatory measures to improve management and address wildlife impacts in gillnets off the California coast.

Sincerely,

Scott Webb
Director of Advocacy & Engagement
Resource Renewal Institute

Caitlynn Birch & Geoff Shester
Pacific Marine Scientist & California Campaign Director
Oceana

Kurt Lieber
President
Ocean Defenders Alliance

Dan Silver
Executive Director
Endangered Habitats League

Kimberly Anne Vawter Malloy
General Manager
Santa Barbara Adventure Company & Channel Islands Adventure Company

Rachel Bustamante
Ocean Program Director
Earth Law Center

Stefanie Brendl
Executive Director
Shark Allies

Natalie Ahwesh
Director of State Affairs

Laura Walsh
California policy manager

Animal Wellness Action

Surfrider Foundation

Finn Does
Co-Chair
Bay Area Youth Climate Summit

Pamela Flick
California Program Director
Defenders of Wildlife

Rachel Carbary
Donor Relations & Events Coordinator
Dolphin Project

Joy Primrose
Director, National Board of Directors
American Cetacean Society

Elizabeth Purcell
Environmental Policy Coordinator
Turtle Island Restoration Network

Francine Kershaw, PhD.
Senior Scientist
Natural Resources Defense Council

Maxwell Bracey
President
DiverSeaFy

Tomas Valadez
CA Policy Associate
Azul

Laura Deehan
State Director
Environment California

Michael Stocker
Director
Ocean Conservation Research

David McGuire & Michael Bear
Director & Community Science Director
Shark Stewards

Ashley Eagle-Gibbs
Executive Director
Environmental Action Committee of West Marin

Mark J. Palmer
Associate Director
International Marine Mammal Project
of Earth Island Institute

Elizabeth Beltramo
Co-Owner
Eco Dive Center

Emily Parker
Coastal and Marine Scientist
Heal the Bay

(No subject)

Douglas McCauley [REDACTED]

Thu 06/06/2024 05:01 PM

To:FGC <FGC@fgc.ca.gov>

Cc:jweis [REDACTED] Pondella [REDACTED] richard.n.bray [REDACTED]

[REDACTED] clubarsky [REDACTED] larry.allen [REDACTED] Giulio

De Leo [REDACTED] jjcech [REDACTED]

Dear colleague

Please see attached letter which we would respectfully ask to be considered under Agenda Item 25: Commercial California halibut and white seabass set gill net for the June FGC meeting.

Thank you for your time and consideration.

Regards
Douglas

June 6, 2024

Ms. Samantha Murray, President
California Fish and Game Commission
P.O. Box, 944209
Sacramento, CA 94244-2090

Dear President Murray and Members of the Commission,

We the undersigned marine scientists, fishery scientists and conservation biologists see a strong need to address and minimize bycatch in state managed fisheries. The low selectivity and high mortality rates of bycatch in gillnets has been implicated in the localized and population level declines of many vulnerable species in California marine ecosystems (Takekawa et al. 1990, Forney et al. 2001, Pondella and Allen 2008, Forney et al 2021). Relative to other fisheries, set gillnets have among the highest ratios of bycatch to target species, creating disproportionate ecosystem impacts and management challenges particularly when discards and species impacts are not monitored (Berrow 1994, Alverson et al. 1994, Cook 2003, Forney et al. 2001, Shester and Micheli 2011, Micheli et al. 2014).

We urge the California Fish and Game Commission to thoughtfully consider the impacts of this fishery in the context of an ecosystem-based approach, and set strong management actions to minimize bycatch and bycatch mortality, including a 24-hour maximum soak time (with weather exemptions) and unique, distinguishable, gear-marking.

There is substantial evidence that demonstrates soak times longer than 24 hours drastically decrease the survivorship of all species, decrease the quality of the target catch, and increase entanglement and depredation impacts (i.e., Lyons et al. 2013). A 24-hour maximum soak time is largely consistent with the current patterns of fishing in the set gillnet fleet. According to CDFW the majority of the set gillnet fleet reports less than a 24-hour soak time (CDFW 2023). A 24-hour service interval would reduce the number of sets that have greater physiological impacts, mortality rates, and entanglement risks. Establishing active gear-tending requirements ensures that fishermen are monitoring and managing their gear and is consistent with requirements in other fixed gear fisheries off California and elsewhere.

Large whale entanglements are a significant problem for whales that migrate and feed along the U.S. West Coast. Gillnets have been documented in large whale entanglements for decades with little insight on the specific fishery involved in the absence of robust gear-marking in many California fixed-gear fisheries. We encourage the discussion of unique and distinguishable line marking that the Commission is confident will ensure gillnets involved in future entanglements will be able to be positively or negatively attributed to this fishery.

Sincerely,

Dr. Douglas McCauley, Professor, UC Santa Barbara

Dr. Daniel Pondella, Professor/Director, Occidental College

Dr. Larry G. Allen, Professor Emeritus of Biology, California State University Northridge

Dr. Richard Bray, Professor Emeritus, California State University San Marcos

Katie Lubarsky, Staff Researcher, UC San Diego

Dr. Giulio De Leo, Professor, Stanford University, Hopkins Marine Station

Dr. Joe Cech, Professor Emeritus of Fish Biology, UC Davis

Dr. Judith S Weis, Professor Emerita, Rutgers University

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