

Staff Summary for April 16-17, 2025

19. Commercial California Halibut and White Seabass Set Gill Nets (Consent)**Today's Item**Information Action

Consider adopting proposed amendments required by the Office of Administrative Law for commercial California halibut and white seabass set gill net fisheries regulations.

Summary of Previous/Future Actions

- | | |
|--|---------------------------|
| • Marine Resources Committee (MRC) vetting | 2022 – 2023, various; MRC |
| • MRC discussion and recommendation | November 16, 2023; MRC |
| • Notice hearing | April 17-18, 2024 |
| • Discussion hearing | June 19-20, 2024 |
| • Adoption hearing | August 14-15, 2024 |
| • 15-day notice issued | December 19, 2024 |
| • Today's adoption of revised regulatory language | April 16-17, 2025 |

Background

At its August 2024 meeting, the Commission adopted regulations related to commercial California halibut and white seabass set gill nets. For background information on the adopted regulations, see Exhibit 1.

Following adoption by the Commission, the regulatory language was modified to make changes required by the Office of Administrative Law (OAL) during OAL's review of the regulation. The changes to the regulatory language (Exhibit 2) improved the clarity and enforceability of the regulations. Under delegated authority, the Commission executive director determined that the changes were minor given the commissioners direction and intent, and that the changes were consistent with Commission approval in August 2024.

The Commission provided notice of the changes to interested and affected parties on December 19, 2024, and no public comments were received by the notice's 15-day comment deadline on January 3, 2025. After public notice of the changes and the January comment deadline, the Commission resubmitted the regulation to OAL. OAL asserted that the Commission would need to vote on and approve the changed regulation at a public meeting.

Today's action is administrative only, to satisfy OAL's requirement for the Commission to adopt the changed language contained in the December notice. The Commission is not expected to engage in any discussion, and any additional changes to the regulatory language would be outside the scope of the December notice and today's action.

Significant Public Comments (N/A)**Recommendation**

Commission staff: Under a motion to adopt the consent calendar, adopt the revised regulatory language as it appears in Exhibit 2

Staff Summary for April 16-17, 2025

Exhibits

1. [Staff Summary for August 14-15, 2024 Commission meeting, Agenda Item 6 \(for background purposes only\)](#)
2. [Description of specific edits and revisions to adopted regulatory language, December 19, 2024](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for items 19 through 21 on the consent calendar.

Staff Summary for August 14-15, 2024

*For Background Purposes Only***6. Commercial California Halibut and White Seabass Set Gill Net****Today's Item**Information Action

Consider adopting proposed amendments to regulations for commercial California halibut and white seabass 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 |
| • Notice hearing | April 17-18, 2024 |
| • Discussion hearing | June 19-20, 2024 |
| • Today's 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. *establishing a maximum net service interval (soak time)*, limiting the time set gill nets remain set to reduce bycatch mortality;
2. *requiring gear marking*, adding colored straps for easier identification of nets from California; and
3. *establishing maximum mesh depth (net height) limits*, to target specific fish species while reducing unintended bycatch.

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). At its June 2024 meeting, the Department recommendation the Commission select a maximum net service interval of 36 hours and select the color orange for required gear markings (Exhibit 4).

Update

Following the discussion hearing, various non-substantive edits were made to the proposed regulatory language (Exhibit 3) to fix grammatical mistakes and correct Title 14 terminology. These changes were without regulatory effect and therefore did not require a subsequent public notice.

Staff Summary for August 14-15, 2024

For Background Purposes Only

The Department has also provided a pre-adoption statement of reasons with a summary and response to all public comments received during the notice period (exhibits 5 and 6). The Department does not propose any changes to its recommended regulations based on the comments.

Significant Public Comments

1. Several NGOs signed on to a letter in support of the proposed regulations, calling for a 24 hour maximum service interval and suggesting future refinements to gear marking requirements.
2. Twenty-eight public comments received during the notice period are summarized in Exhibit 6.

Recommendation

Commission staff: Adopt the proposed regulations as recommended by the Department, with the Department-preferred options for service interval and gear marking based on rationale in Exhibit 4.

Department: Adopt the proposed regulations in Exhibit 3 with a maximum service interval of 36 hours and an orange nylon strap as a required gear marking.

Exhibits

1. Staff summary from April 17-18, 2024 Commission meeting (*for background purposes only*)
2. Initial Statement of Reasons
3. Revised proposed regulatory language
4. Department memo with recommendations, received June 6, 2024
5. Department memo transmitting Pre-adoption Statement of Reasons (PSOR) and summary and responses to comments received, received August 2, 2024
6. PSOR, including summary and responses to public comments received
7. Email from Scott Webb, received August 1, 2024

Motion

Moved by _____ and seconded by _____ that the Commission adopts the proposed regulations to add Section 174.1 related to commercial California halibut and white seabass set gill nets, with a *required maximum service interval of 36 hours and orange-colored gear marking.*

OR

Moved by _____ and seconded by _____ that the Commission adopts the proposed regulations to add Section 174.1 related to commercial California halibut and white seabass set gill nets, with a *required maximum service interval of hours and orange-colored gear marking.*

Description of Specific Edits to the Regulatory Text

Section 174.1(a)(1): Delete the original language and re-write with rearranged sentence structure for clarity.

Section 174.1(a)(1): Add "...the permittee may request a waiver for exemption to comply by allowing another set gill net permittee to retrieve their nets," to clarify that the scope of the exemption is to allow for an alternate compliance mechanism to the service interval.

Section 174.1(a)(1)(A): Add "...All requests for an exemption to the set gill net service interval under subsection (a)(1) shall be evaluated by the Department on a case-by-case basis," to ensure flexibility for the Department when considering and assessing the various circumstances resulting in undue hardship exemption requests.

Section 174.1(a)(2): Add clarifying language – "...as described in subsection (a)(2)(A)..." and "...if the conditions in subsection (a)(2)(B) are met..." - in the description of the unsafe weather condition exemption linking the description to the definition and processes for claiming the waiver in the subsections below.

Section 174.1(a)(2): Change "...a permittee may be exempt..." to "...a permittee shall be exempt..." when defined weather conditions are met and the permittee requests an unsafe weather condition exemption.

Section 174.1(a)(2): Add "The Department may grant an exemption when subsection (a)(2)(B) conditions are not met if, considering all weather circumstances on a case-by-case basis, the permittee's safety may be at risk" to allow for unsafe weather exemptions to be granted when circumstances may still be unsafe even though they do not precisely fit the unsafe weather definition in the regulation.

Section 174.1(a)(2): Add "After claiming an exemption, a permittee may be cited by the Department for a violation of subsection (a) if weather conditions were not unsafe as defined in subsection (a)(2)(B) or if the Department did not otherwise authorize an exemption" to ensure enforceability and accountability if it is discovered that a permittee was granted or claimed an unsafe weather condition exemption illegitimately.

Section 174.1(a)(3)(A): Add a semicolon after "approved exemption" and before "or."

Section 174.1(b): change "...all set gill nets shall be marked with an orange-colored 1-inch-wide nylon strap which shall be woven into the corkline at intervals..." to "...all set gill nets shall be marked with a series of orange-colored 1-inch-wide nylon straps which shall be woven into the headrope at intervals..." to clarify that the required gear marking is a series of straps – as illustrated in the initial statement of reasons – rather than a single strap. Also replaces the term "corkline" for the more modern and commonly used term "headrope."

Revised 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 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 subsection (a) if the permittee cannot comply due to a major mechanical failure or undue hardship resulting from circumstances beyond the control of the permittee.~~

(1) Undue Hardship Exemption – If a permittee cannot comply with the set gill net service interval requirement described in subsection (a) due to a major mechanical failure or undue hardship resulting from circumstances beyond the control of the permittee, the permittee may request a waiver for exemption to comply by allowing another set gill net permittee to retrieve their nets.

(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. All requests for an exemption to the set gill net service interval under subsection (a)(1) shall be evaluated by the Department on a case-by-case basis.

(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 as described in subsection (a)(2)(A), a permittee may shall be exempt from the set gill net service interval requirement described in subsection (a) due to unsafe weather conditions at sea if the conditions in subsection (a)(2)(B) are met. The Department may grant an exemption when subsection (a)(2)(B) conditions are not met if, considering all weather circumstances on a case-by-case basis, the permittee's safety may be at risk. 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. After claiming an exemption, a permittee may be cited by the Department for a violation of subsection (a) if weather conditions were not unsafe as defined in subsection (a)(2)(B) or if the Department did not otherwise authorize an exemption.

(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 ~~an~~ a series of orange-colored 1-inch-wide nylon ~~strap straps~~ which shall be woven into the ~~earline~~ headrope 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.

Note: Authority cited: 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.