

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044
County Clerk
County of: N/A

From: California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

Project Title: Add Section 174.1 to Title 14 of the California Code of Regulations (CCR), Regarding California Set Gill Net Soak Time, Gear Marking, and Mesh Depth

Project Applicant: N/A

Project Location: Ocean Waters, Statewide

Project Location - City: N/A

Project Location - County: N/A

Description of Nature, Purpose, and Beneficiaries of Project: The proposed project will reduce bycatch in the affected fishery by limiting the permissible soak time for set gill net use, requiring set gill nets to be marked for ownership identification, and limiting mesh depth. The project will benefit marine wildlife that would otherwise be caught as bycatch, thereby benefiting and maintaining marine biodiversity and the overall marine ecosystem.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: **(check one):**

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. California Code of Regulations, Title 14, Sections 15307 and 15308
- Statutory Exemptions. State code number:

Reasons why project is exempt: See attachment


Lead Agency

Contact Person: Melissa Miller-Henson

Telephone: (916) 653-4899

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature:  Date: August 23, 2024 Title: Executive Director

Signed by Lead Agency Signed by Applicant. Date Received for filing at OPR:

Attachment to Notice of Exemption California Set Gill Net Soak Time, Gear Marking, and Mesh Depth

On August 14, 2024, the California Fish and Game Commission (Commission) approved an action to add Section 174.1 to Title 14 of the California Code of Regulations regarding set gill net soak time, gear marking, and mesh depth (Project). In approving this action, the Commission complied with the California Environmental Quality Act (CEQA) by finding that the Project is exempt from review.

Categorical Exemptions to Protect Natural Resources and the Environment

The Commission approved the Project because it qualifies for two of the categorical exemptions set forth in the CEQA Guidelines: the Class 7 exemption, applicable to an “Action by Regulatory Agencies for Protection of Natural Resources,” and the Class 8 exemption, applicable to an “Action by Regulatory Agencies for Protection of the Environment.” See California Code of Regulations, Title 14, sections 15307 and 15308. The Class 7 and 8 exemptions apply to agency actions to assure the maintenance, restoration, and enhancement of natural resources and the environment, respectively.

The purpose and impact of the Project will be to assure the maintenance, restoration, and enhancement of the marine environment and marine species by reducing unwanted bycatch of marine species in set gill nets. The Project will protect species that would be otherwise caught as bycatch in set gill nets due to unrestricted soak times and mesh depths.

No Exceptions to Categorical Exemptions Apply

Based on review of all available information on the record, the Commission found that the relevant exceptions to categorical exemptions, as set forth in CEQA Guidelines Section 15300.2, subsections (b)-(f), do not apply.

Cumulative Impacts: The Project presents no risk of cumulative impacts because successive projects of the same type (assuring the maintenance, restoration, and enhancement of the environment by aiming to reduce unwanted bycatch resulting from use of set gill nets) would serve to further protect marine resources.

Significant Effects: The Project also presents no risk of significant impacts due to unusual circumstances. There is no reasonable possibility that limiting set gill net soak times, requiring gear marking, or limiting mesh depth will have a significant effect on the environment due to unusual circumstances.

First, compared to the activities that fall within Classes 7 and 8 generally, which include natural resource enhancement activities such as the regulatory effort here, there is nothing unusual about the Project that would create a significant impact. The Commission consistently promulgates gear marking requirements and general use restrictions to protect target and non-target marine species – there is nothing unusual about the Project.

Second, based on the available data, the Project presents no reasonably foreseeable direct or indirect significant impacts resulting from compliance. Even speculative impacts would be *de minimis*, because the regulated community consists of a small number of individuals. From years 2019 to 2023, an average of thirty-seven gill net permittees landed fish caught in set gill

nets. From the years 2007 to 2022, seventy-two percent of active permittees self-reported a set gill net soak time of less than 24 hours; the majority of permit holders already comply with the soak time limit such that few would need to change practices to comply.

The Project presents no unusual circumstances. Therefore, there are no unusual circumstances that would result in significant impacts. Furthermore, the proportion of the regulated community that will need to modify fishing practices is small such that, even speculative impacts of compliance would be *de minimis*.

Therefore, the exceptions set forth in CEQA Guidelines Section 15300.2 do not apply and the Commission has properly relied on the Class 7 and Class 8 categorical exemptions to comply with CEQA.