

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 124
Title 14, California Code of Regulations
Re: Definition of Light Touch Trawl Gear for Use within the California Halibut Trawl
Grounds

- I. Date of Initial Statement of Reasons: January 9, 2009
Date of Amended Initial Statement of Reasons: March 11, 2009
- II. Date of Pre-adoption Statement of Reasons: April 16, 2009
- III. Date of Final Statement of Reasons: May 28, 2009
- IV. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: February 5, 2009
Location: Sacramento, California
 - (b) Discussion Hearing: Date: March 6, 2009
Location: Woodland, California
 - (c) Discussion Hearing: Date: April 9, 2009
Location: Lodi, California
 - (d) Adoption Hearing: Date: May 14, 2009
Location: Sacramento, California
- V. Update:

No modifications were made to the originally proposed language of the Amended Initial Statement of Reasons.
- VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those considerations:

Comment 1:

April 9, 2009 Commission meeting: Mike McCorkle, representing the Southern California Trawlers Association (SCTA), whose members include the individual fishermen who would be affected by the proposed regulatory language, supports the proposal.

Response to comment 1:

Comment noted.

Comment 2:

In a letter dated April 7, 2009 to the Commission from Oceana, Santi Roberts expressed concern that the headrope maximum length requirement of 90 feet was too long and that the trawl door maximum weight requirement of 500 pounds was too heavy. Mr. Roberts suggested that the Commission adopt an 80-foot maximum headrope length requirement and a 386-pound maximum trawl door weight requirement.

Response to comment 2:

Headropes are measured from the junction with the bridle (the bridle in turn connects to the trawl door). Most fishermen rig their nets so the netting material does not begin at the junction of the headrope with the bridle, but rather farther along the headrope towards the center of the net. The 10-foot difference in the headrope length suggested by Mr. Roberts represents approximately that portion of the headrope for which no net is actually attached. In effect, a 90-foot headrope actually has a net that extends approximately 80 feet along the headrope.

Eight of nine halibut trawlers who fish within the California Halibut Trawl Grounds (CHTG) and who were interviewed by the Department last year stated that their trawl doors weigh less than 400 pounds each; one trawler estimated the weight at 450 pounds. However, not all trawlers were interviewed who fish within the CHTG (less than 20 vessels currently fish with the CHTG). A maximum 500 pound trawl door weight will accommodate the few trawlers who use doors in the 400-500 pound range.

The following comments were heard at the May 14, 2009 Commission meeting (adoption hearing):

Comment 3:

April Wakeman, representing sport fishing interests, supports the proposed regulations.

Comment 4:

Gary Burke, halibut trawl permit holder, supports the proposed regulations.

Comment 5:

Mike McCorkle, halibut trawl permit holder, supports the proposed regulations.

Response to comments 3, 4, and 5:

Comments noted.

Comment 6:

Paul Weakland asked why the Commission and Department's work with abalone can't have the same speed and cooperation as this process.

Response to comment 6:

This comment does not address light touch trawl gear regulations and therefore cannot be addressed in this particular regulatory procedure.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

The Department considered the elimination of the requirement that no roller gear would be permitted on a trawl net or on the footrope to which the trawl net is attached, for trawl gear used within the CHTG. The Department received information from the SCTA that two trawlers currently active within the CHTG use small-diameter roller gear on the footrope. However, given the proposed time frame for replacing nets and the relatively minor cost and time to replace roller gear with chain, the Department believes that the prohibition on the use of roller gear within the CHTG is justified. Mike McCorkle (SCTA) stated that the owners of the vessels using roller gear would have no problem replacing the roller gear with chain. It is thought that the relatively small-diameter chain placed along the footrope (bottom portion of the net) has less overall impact on the soft-bottom habitat than roller gear.

(b) No Change Alternative:

If the proposed regulations are not adopted, the possibility remains that

larger trawl nets on vessels with valid California Halibut Bottom Trawl Vessel Permits could be used within the CHTG, and potential impacts to soft-bottom habitat could be greater.

- (c) Consideration of Alternatives: In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

X. 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 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 regulation will only apply to approximately 12-15 commercial halibut trawl vessel operators.

- (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:

None.

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

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

None.

- (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.

Updated Informative Digest/Policy Statement Overview

The Fish and Game Commission (Commission) has stated its intent to provide for a sustainable trawl fishery within the California Halibut Trawl Grounds (CHTG), which are located in certain sections of state waters between one and three nautical miles from the mainland shore between Point Arguello and Point Mugu. Existing law establishes the open season for trawling within the CHTG from June 16 to March 14, inclusive. In addition, existing law establishes the minimum mesh size (7.5 inches), length (29 meshes), and circumference (47 meshes) of the cod end of any trawl net used within the CHTG. Existing law also allows the use of a double cod end only if it is hung and tied to each rib line of the trawl so that the knots of each layer coincide, knot for knot, for the full length of the double layers. The double mesh section shall not measure over 25 meshes or 12 feet in length, whichever is greater. These laws contribute to the sustainability of the fishery and they will continue to apply whether or not additional new gear restrictions are adopted.

The Commission has also stated its intent to minimize the impact from trawling on the soft-bottom habitats in which the fishery operates. The Southern California Trawlers Association (SCTA) has proposed a definition for “light touch” trawl gear which would meet the stated intentions of the Commission. The proposed regulations, including a definition of “rollers” and “bobbins”, are as follows:

(b) Gears. Special gear requirements apply while trawling for California halibut in the California Halibut Trawl grounds. Each trawl net, including trawl doors and footrope chain, shall meet the following requirements:

(1) Each trawl net shall have a headrope not exceeding 90 feet in length. The headrope is defined as a chain, rope, or wire attached to the trawl webbing forming the leading edge of the top panel of the trawl net. Headrope shall be measured from where it intersects the bridle on the left side of the net to where it intersects the bridle on the right side of the net.

(2) The thickness of the webbing of any portion of the trawl net shall not exceed 7 millimeters in diameter.

(3) Each trawl door shall not exceed 500 pounds in weight.

(4) Any chain attached to the footrope shall not exceed one quarter inch in diameter of the link material. The footrope is defined as a rope or wire attached to the trawl webbing forming the leading edge of the bottom panel of the trawl net.

(5) The trawl shall have no rollers or bobbins on any part of the net or footrope. Rollers or bobbins are devices made of wood, steel, rubber, plastic, or other hard material that encircle the trawl footrope. These devices are commonly used to either bounce or pivot over seabed obstructions, in order to prevent the trawl footrope and net from snagging on the seabed.

The Commission adopted the originally proposed language of the Amended Initial Statement of Reasons on May 14, 2009.

Regulatory Language

Section 124, Title 14, CCR is amended to read:

§ 124. Halibut Trawling.

(a) Areas. Section 8495 of the Fish and Game Code designates the California Halibut Trawl Grounds as certain state waters along the mainland shore between Point Arguello and Point Mugu and specifies that this area is open to trawling when the season is open. Subdivision 8495(c) specifies four sub-areas within the California Halibut Trawl Grounds that will close to trawling commencing April 1, 2008, unless the commission makes findings as defined in that subdivision.

(1) Open Areas. Because the commission has made the requisite findings for three of the aforementioned four sub-areas within the California Halibut Trawl Grounds, the commission authorizes the following waters to remain open to trawling commencing June 16, 2008, and thereafter when the season is open, notwithstanding subdivision 8495(c) of the Fish and Game Code:

(A) Rocky Point (near Point Arguello) to Point Conception: From a line extending from Rocky Point true south (180°) and out three miles, the ocean waters extending south and east lying between one and three nautical miles from the mainland shore to a line extending true west (270°) from a point on land approximately one-half mile north of Point Conception at latitude 34° 27.5 '.

(B) Santa Barbara Point to Pitas Point: The ocean waters lying between one and two nautical miles from the mainland shore lying east of a line extending true south (180°) from Santa Barbara Point and west of a line extending true south (180°) from Pitas Point.

(C) Hueneme Canyon to Laguna Point: From the eastern border of the IMO Vessel Traffic safety zone on NOAA/NOS Chart 18725 in Hueneme Canyon, the ocean waters extending south and east lying between one and three nautical miles from the mainland shore to a line extending true south (180°) from Laguna Point.

(2) Closed Areas. The waters permanently closed to trawling within the California Halibut Trawl Grounds are those specified in subdivision 8495(b) of the Fish and Game Code, and the following sub-area identified in subdivision 8495(c) of the Fish and Game Code:

(A) Point Conception to Gaviota: The ocean waters between one and three nautical miles from the mainland shore lying east of a line extending true south (180°) from a point on land approximately 1/2 ~~miles~~mile east of Point Conception at longitude 120° 27.5 ', and west of a line extending due south from Gaviota.

(b) Gears. Special gear requirements apply while trawling for California halibut in the California Halibut Trawl grounds. Each trawl net, including trawl doors and footrope chain, shall meet the following requirements:

(1) Each trawl net shall have a headrope not exceeding 90 feet in length. The headrope is defined as a chain, rope, or wire attached to the trawl webbing forming the leading edge of the top panel of the trawl net. Headrope shall be measured from where it

intersects the bridle on the left side of the net to where it intersects the bridle on the right side of the net.

(2) The thickness of the webbing of any portion of the trawl net shall not exceed 7 millimeters in diameter.

(3) Each trawl door shall not exceed 500 pounds in weight.

(4) Any chain attached to the footrope shall not exceed one quarter inch in diameter of the link material. The footrope is defined as a rope or wire attached to the trawl webbing forming the leading edge of the bottom panel of the trawl net.

(5) The trawl shall have no rollers or bobbins on any part of the net or footrope. Rollers or bobbins are devices made of wood, steel, rubber, plastic, or other hard material that encircle the trawl footrope. These devices are commonly used to either bounce or pivot over seabed obstructions, in order to prevent the trawl footrope and net from snagging on the seabed.

NOTE: Authority cited: Sections 8841 and 8495, Fish and Game Code. Reference: Sections 8392, 8494, 8495, 8496, 8497, 8830, 8831, ~~8834.1, 8834.5~~, 8837, 8840, 8841 and 8843, Fish and Game Code.