

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
STATEMENT OF REASONS FOR REGULATORY ACTION  
(Final Statement of Reasons)

Amend Section 180.3  
Title 14, California Code of Regulations  
Re: Restricted Access Fishery

- I.     Date of Initial Statement of Reasons:             February 20, 2004  
       Date of Pre-adoption Statement of Reasons:     March 8, 2004  
       Date of Final Statement of Reasons:             May 27, 2004

III.    Dates and Locations of Scheduled Hearings:

- |     |                     |           |               |
|-----|---------------------|-----------|---------------|
| (a) | Notice Hearing:     | Date:     | March 5, 2004 |
|     |                     | Location: | Redding       |
| (b) | Discussion Hearing: | Date:     | April 1, 2004 |
|     |                     | Location: | Redding       |
| (c) | Adoption Hearing:   | Date:     | May 4, 2004   |
|     |                     | Location: | San Diego     |

IV.    Description of Modification of Originally Proposed Language of Initial Statement of Reasons:

Description of Regulatory Action:

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

The Commission's restricted access fishery policy states that, "Each restricted access program that is not based on harvest rights shall have a capacity goal." The department anticipated that 13 Tier 2 permits would be issued at the current capacity of 2500 pounds in any permit year. Only four permits have been issued under current Tier 2 requirements, thus, increasing the allotment to 5000 will not negatively impact the resource.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Section 8591, Fish and Game Code.

Reference: Sections 8101, 8590-8595, 9000, 9001 and 9015, Fish and Game Code.

V. Reasons for Modification of Originally Proposed Language of Initial Statement of Reasons:

No changes have been made in the originally proposed regulatory language.

VI. Summary of Primary Considerations Raised in Opposition and in Support of proposed regulation change.

Responses to public comments received previous to this documents creation were included in the Pre-adoption Statement of Reasons which is included in this regulatory package.

One new letter was received since the Pre-adoption Statement of Reasons. The letter dated April 22, 2004 was received from L.Ryan Broddrick, Director, Department of Fish and Game. It is recommended that the Commission not increase the annual harvest quota for Tier 2 Spot Prawn Trap permittees from the current 2500 pounds.

It further states, that in a future regulatory action, the Commission consider a conversion program for displaced spot prawn trawl fishermen to the use of traps. It suggests that the current proposed regulations could undermine the intent of the spot prawn trap restricted access program.

**Commission response:** When the Department originally submitted the proposed regulations, they anticipated that 13 people would qualify, yet it is the Commission's understanding that there are less than 4 active permits. The Commission determined that increasing the annual harvest would be a benefit to the current permittees, and there would be no detriment to the resource due to the less than anticipated 13 original qualifying permittees.

In response to the second issue of considering a trap conversion program, the Commission is expecting to consider this issue in an upcoming regulatory action. Therefore, it does not fall under the parameters of this current regulatory process.

Mr. John Alioto spoke at the Commission meeting on May 4, 2004, saying he did not support the increase in harvest. He did not expound on that comment or offer any alternative to it.

Mr. Alioto's opposition is noted.

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. 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.

By raising the capacity goal to 5000, there will be a positive economic impact to those affected.

- (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: None.

(h) Effect on Housing Costs: None.

## **Updated Informative Digest/Policy Statement Overview**

Under current regulations, Section 180.3, Title 14, CAC, currently holds the maximum harvest for those with a Tier 2 permit at 2500 pounds of spot prawns landed in a permit year.

The proposed regulatory changes raise the maximum harvest level from 2500 to 10000.

The department anticipated that 13 permits would be issued and the maximum allotment of 2500 pounds in any permit year would be necessary to limit harvest. Only four permits have been issued under current Tier 2 requirements. In addition, the spot prawn trawl fishery has been closed; thereby, reducing the overall annual harvest of spot prawns. Thus, increasing the allotment to 10000 pounds will not negatively impact the resource. It will, however, be an economic benefit to those who currently hold a valid Tier 2 permit.

Minor editorial changes are also proposed to improve the clarity and consistency of the regulations.

**The Commission, at its May 4, 2004, meeting adopted the proposed regulation changes.**