

## Regulatory Language

Subsection 122(f), Title 14, CCR, is amended to read:

### **§ 122. Lobsters, Permits to Take.**

(f) ~~Procedures and Deadline for Permit Renewal and Forfeiture of Non-renewed Permits.~~

Applications for renewal of transferable and non-transferable lobster operator permits must be received by the department or if mailed, postmarked not later than April 30 of each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. ~~Applications presented or postmarked after April 30 and before June 1 will be assessed a late penalty pursuant to Section 7852.2 of the Fish and Game Code. Applications postmarked or presented after May 31 will not be considered. The holder of a transferable or non-transferable lobster operator permit who fails to renew his/her permit on or before May 31 will be considered to have forfeited that permit to the department and shall thereafter be able to commercially fish for lobster only under the authority of a lobster crewmember permit or by obtaining a transferable lobster operator permit pursuant to these regulations.~~

NOTE:

Authority cited: Sections 1050, 8254 and 8259, Fish and Game Code. Reference: Sections 1050, 2365, 7852.2, 8043, 8046, 8250-8259, 9002-9006 and 9010, Fish and Game Code.

Section 124.1, Title 14, CCR, is added to read:

### **§124.1 California Halibut Bottom Trawl Vessel Permits.**

(a) California Halibut Bottom Trawl Vessel Permits shall be issued pursuant to Section 8494 of the Fish and Game Code.

(b) Renewal. Beginning April 1, 2009, and thereafter, applications for renewal of California Halibut Bottom Trawl Vessel Permits shall be received by the department, or if mailed, postmarked, on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

NOTE:

Authority cited: Section 1050, and Subsection 8494(h), Fish and Game Code. Reference: Sections 1050, 8494 and 7852.2, Fish and Game Code.

Subsection 125(e)(2), Title 14, CCR, is amended to read:

### **§ 125. Commercial Rock Crab Permits.**

(e) Southern Rock Crab Trap Permit Issuance.

(2) Southern Rock Crab Trap Permit Renewal. Southern rock crab trap permits must be renewed annually.

(A) Beginning with the 2006-2007 permit year, only persons who held a valid southern rock crab trap permit during the immediately preceding permit year are eligible to obtain a permit for the following permit year.

(B) All applications and permit fees for renewal of a southern rock crab trap permit shall be received by the department, or, if mailed, postmarked on or before April 30 of each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. ~~Applications for renewal of a southern rock crab trap permit received by the department, or if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications for renewal of a southern rock crab trap permit received or postmarked after May 31 shall be returned to the applicant unissued.~~

NOTE:

Authority cited: Sections 1050 and 8282, Fish and Game Code. Reference: Sections 1050, 7852.2, 7857, 8250.5, 8282, 8284, 9000, 9001, 9002, 9005, 9006 and 9011, Fish and Game Code.

Subsection 125(g), Title 14, CCR, is amended to read:

#### **§ 125. Commercial Rock Crab Permits.**

(g) Appeals.

(1) Southern Rock Crab Trap Permit Initial Issuance Appeals. Any applicant who is denied initial issuance of a southern rock crab trap permit for any reason by the department may appeal that denial to the commission in writing, describing the basis for the appeal. The appeal shall be received by the commission or, if mailed, postmarked on or before March 31, 2006.

(2) Southern Rock Crab Trap Renewal Appeals. ~~Any applicant who is denied renewal of a southern rock crab trap permit for any reason may appeal that denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid southern rock crab trap permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.~~

NOTE:

Authority cited: Sections 1050 and 8282, Fish and Game Code. Reference: Sections 1050, 7852.2, 7857, 8250.5, 8282, 8284, 9000, 9001, 9002, 9005, 9006 and 9011, Fish and Game Code.

Subsection 149.1(g), Title 14, CCR, is amended to read:

#### **§ 149.1. Market Squid Fishery Restricted Access Program.**

(g) Application Deadlines for Annual Permit Renewal. All applications [FG 1315 (Rev. 11/05), incorporated by reference herein] and permit fees for renewal of Market Squid

Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits must be received by the department at the address specified on the application, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. ~~Applications and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the department, or, if mailed, postmarked from May 1 through May 31 of each permit year will be assessed a \$250 late fee, notwithstanding Fish and Game Code Section 7852.2. Applications and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the department at the address specified on the application, or, postmarked after May 31 of each permit year will be denied by the department and returned to the applicant.~~

NOTE: Authority cited: Sections 713, 1050, 7071, 7078, 7923, 8026, 8425, 8428 and 8429.5, Fish and Game Code. Reference: Sections 1050, 7050, 7071, 7701, 7708, 7852.2, 7923, 8026, 8101, 8425, 8428, 8429.5 and 8429.7, Fish and Game Code.

Subsection 149.1(h), Title 14, CCR, is amended to read:

**§ 149.1. Market Squid Fishery Restricted Access Program.**

~~(h) Renewal Appeals. Any applicant who is denied renewal of a Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's written decision. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.~~

NOTE: Authority cited: Sections 713, 1050, 7071, 7078, 7923, 8026, 8425, 8428 and 8429.5, Fish and Game Code. Reference: Sections 1050, 7050, 7071, 7701, 7708, 7852.2, 7923, 8026, 8101, 8425, 8428, 8429.5 and 8429.7, Fish and Game Code.

Subsection 150(j), Title 14, CCR, is amended to read:

**§ 150. Nearshore Fishery Restricted Access Program.**

~~(j) Application Deadline for Nearshore Fishery Permit Renewal. All applications (FG 1326 (Rev. 11/05), incorporated herein by reference) and permit fees for renewal of Nearshore Fishery Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. Applications and permit fees for renewal of Nearshore Fishery Permits received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees postmarked or presented after May 31 will not~~

~~be considered and the Nearshore Fishery Permit applied for shall be cancelled and not available for renewal in subsequent years.~~

NOTE:

Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 7852.2, 8043, 8046, 8102, 8587, 8587.1, 8588, 8589.5 and 8589.7, Fish and Game Code.

Subsection 150(m), Title 14, CCR, is amended to read:

**§ 150. Nearshore Fishery Restricted Access Program.**

(m) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

~~(2) Any applicant who is denied renewal of a Nearshore Fishery Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.~~ Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(3) Any applicant who is denied transfer of a Nearshore Fishery Permit may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

NOTE:

Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 7852.2, 8043, 8046, 8102, 8587, 8587.1, 8588, 8589.5 and 8589.7, Fish and Game Code.

Subsection 150.02(g), Title 14, CCR, is amended to read:

**§150.02. Control Dates for Other Nearshore Species; Permits to Commercially Take Deeper Nearshore Fish Species.**

(g) Renewal.

(1) Applicants seeking renewal of a deeper nearshore species fishery permit must have held a deeper nearshore species fishery permit in the immediately preceding permit year.

(2) Applications [FG 1329 (Rev. 11/05), incorporated herein by reference] and permit fees for renewal of a deeper nearshore species fishery permit must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. ~~Applications received by the department or postmarked from May 1 through May 31, must be accompanied by a \$50 late fee. Applications received by the department or postmarked after May 31 shall be returned to the applicant unissued. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code~~ Section 7852.2.

(3) Applications for renewal must be accompanied by evidence that the qualification requirements specified in subsection (g)(1) have been met.

NOTE:

Authority cited: Sections 713, 1050, 7071 and 8587.1, Fish and Game Code.

Reference: Sections 1050, 7071, 7852.2, 7857, 7858, 8585.5 and 8587.1, Fish and Game Code.

Subsection 150.03(g), Title 14, CCR, is amended to read:

**§ 150.03. Nearshore Fishery Gear Endorsement Program.**

(g) Application Deadline for Nearshore Fishery Permit Gear Endorsement Renewal. All applications [FG 1326 (Rev. 11/05), incorporated herein by reference] and permit fees for renewal of Nearshore Fishery Permit gear endorsements must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. ~~Applications and permit fees for renewal of Nearshore Fishery Permit gear endorsements received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees for Nearshore Fishery Permit gear endorsements postmarked or presented after May 31 will not be considered and the Nearshore Fishery Permit gear endorsement applied for shall be cancelled and not available for renewal in subsequent years.~~

NOTE: Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code.

Reference: Sections 1050, 7852.2, 8046, 8589.5, 8589.7, 9001 and 9001.5, Fish and Game Code.

Subsection 150.03(h), Title 14, CCR, is amended to read:

**§ 150.03. Nearshore Fishery Gear Endorsement Program.**

(h) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit gear endorsement for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department.

The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

~~(2) Any applicant who is denied renewal of a Nearshore Fishery Permit gear endorsement for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial. Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.~~

(3) Any applicant who is denied transfer of a Nearshore Fishery Permit gear endorsement may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

NOTE: Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code.

Reference: Sections 1050, 7852.2, 8046, 8589.5, 8589.7, 9001 and 9001.5, Fish and Game Code.

Subsection 150.05(g), Title 14, CCR, is amended to read:

**§ 150.05. Nearshore Fishery Bycatch Permit Program.**

(g) Application Deadline for Nearshore Fishery Bycatch Permit Renewal. All applications [FG 1328 (Rev. 11/05), incorporated herein by reference] and permit fees for renewal of Nearshore Fishery Bycatch Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. ~~Applications and permit fees for renewal of Nearshore Fishery Bycatch Permits received by the department, or, if mailed, postmarked from May 1 through May 31 will be assessed a \$50 late fee. Applications and permit fees postmarked or presented after May 31 will not be considered and the Nearshore Fishery Bycatch Permit applied for shall be cancelled and not available for renewal in subsequent years.~~

NOTE:

Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 7852.2, 8496, 8587 and 8587.1, Fish and Game Code.

Subsection 150.05(h), Title 14, CCR, is amended to read:

**§ 150.05. Nearshore Fishery Bycatch Permit Program.**

(h) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Bycatch Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31,

2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

~~(2) Any applicant who is denied renewal of a Nearshore Fishery Bycatch Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, not later than March 31 following the permit year in which the applicant last held a valid Nearshore Fishery Bycatch Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.~~ Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

NOTE:

Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 7852.2, 8496, 8587 and 8587.1, Fish and Game Code.

Subsection 163(b)(3), Title 14, CCR, is amended to read:

**§163. Harvest of Herring.**

~~(b)(3) Submit the required application form for Humboldt, Tomales or San Francisco bays, or Crescent City in time for it to be received at the department's License and Revenue Branch, Sacramento, prior to 5:00 p.m. on the first Friday of October. Any application received or postmarked after the above deadline will be subject to Section 163.5(f)(2)(A)(3) of Title 14, CCR.~~

Permit Renewal. Applications for renewal of all herring permits shall be received by the department, or if mailed, postmarked, on or before the first Friday of October each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

NOTE:

Authority cited: Sections 1050, 5510, 8550, 8553 and 8555, Fish and Game Code. Reference: Sections 1050, 7852.2, 8043, 8550, 8552, 8552.6, 8553, 8554, 8555, 8556, 8557 and 8559, Fish and Game Code.

Subsection 163.5(f), Title 14, CCR, is amended to read:

**§ 163.5. Penalties in Lieu of Suspension or Revocation -Herring Permittees.**

(f) Procedures for determining monetary penalties:

(1) Monetary penalties (score range multiplied by the monetary range) for compromise settlement agreements shall be based on the following point system:

SCORE RANGE    MONETARY RANGE

(Total Points)

1-10            \$200 per point as provided in subsection (f)(2) below.

11+            \$400 per point as provided in subsection (f)(2) below.

(2) The score range shall be based on a cumulative total of the points assigned in this subsection:

(A) POINTS ASSIGNED FOR CATEGORY I VIOLATIONS ARE AS FOLLOWS:

1. Failure to properly identify vessel (Sec. 163(d)) 1 point
2. Improperly marked buoys or flags (Sec. 163(f)(2)(F)) 1 point
3. Failure to submit application for renewal of permit prior to the established deadline (Sec. 163(b)(3)) 1 point

\_\_\_\_\_ plus 1/4 point  
\_\_\_\_\_ for each state  
\_\_\_\_\_ working day,  
\_\_\_\_\_ or portion  
\_\_\_\_\_ thereof, the  
\_\_\_\_\_ application  
\_\_\_\_\_ is late, not to  
\_\_\_\_\_ exceed the cost  
\_\_\_\_\_ of a nonresident  
\_\_\_\_\_ herring permit as  
\_\_\_\_\_ specified in  
\_\_\_\_\_ Section 8550.5,  
\_\_\_\_\_ Fish and Game  
\_\_\_\_\_ Code.

4. ~~3.~~ Failure of permittee to have herring permit, commercial fishing license, or boat registration aboard the permit vessel (Sec. 163, para. 1) 2 points
5. ~~4.~~ Setting or operating nets within 300 feet of specified piers and jetties (Sec. 163(f)(2)(C) and (f)(2)(E)) 3 points
6. ~~5.~~ Failure to "tend" nets (Sec. 163(f)(2)(A)) 5 points
7. ~~6.~~ Failure of herring buyer to permanently mark all vehicles, containers or pallets (Sec. 163(j)(1)) 5 points

NOTE:

Authority cited: Sections 1050, 8553 and 8555, Fish and Game Code. Reference: Sections 309, 1050, 7852.2 8552, 8553 and 8555, Fish and Game Code.

Subsection 164(h), Title 14, CCR, is amended to read:

**§ 164. Harvesting of Herring Eggs.**

(h) Permit applications. Each applicant for a herring eggs on kelp permit shall:

(1) Completely fill out and submit the required department Herring-Eggs-on-Kelp Permit Application (FG 1406 5/07) which is incorporated by reference herein (available at the department's License and Revenue Branch, Sacramento), for the season to which the application applies. No person shall submit more than one application per season. Applications shall include a performance deposit as specified in subsection (i) ~~and shall be delivered to the department's License and Revenue Branch, Sacramento or postmarked no later than 5 p.m. on August 1 of each year.~~

(2) ~~Applications postmarked or presented after August 1 and before September 1 will result in a monetary penalty of \$200 plus \$50 for each state working day, or portion thereof, that the application is late, for a period of 30 days. Applications postmarked or presented after August 31 will not be eligible for renewal.~~ Permit Renewal. Applications for renewal of all Herring-Eggs-on-Kelp permits shall be received by the department, or if mailed, postmarked, on or before August 1 each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

NOTE:

Authority cited: Sections 1050, 5510, 8389, 8553 and 8555, Fish and Game Code.

Reference: Sections 1050, 7850, 7850.5, 7852.2, 8043, 8053, 8389 and 8550-8556, Fish and Game Code.

Section 174, Title 14, CCR, is amended to read:

**§174. Permit to Use Gill Nets or Trammel Nets for Commercial Purposes.**

(a) Permit Required.

(1) The owner or operator of a vessel using a gill net or trammel nets shall have obtained a valid gill net/trammel net permit and shall be in possession of said permit when engaged in gill netting or trammel netting activities except as provided under subsection (i). ~~Except as otherwise provided, it is unlawful to fish with a gill net or trammel net unless a permittee is aboard the vessel.~~ Pursuant to Fish and Game Code Section 7857(c), the permittee shall be present when fish are being taken, possessed aboard a boat, or landed for commercial purposes.

(2) To Whom Issued. The department shall issue permits to the owner or operator of a currently registered commercial fishing vessel who has qualified pursuant to subsection (b).

~~(3) Where Issued. Permits shall be issued at department offices in Eureka, Menlo Park, Monterey, Long Beach and San Diego.~~

(b) Qualifications for the Permit. To qualify for a permit, an applicant shall:

(1) Have worked as a crewmember for at least 12 months on vessels using gill nets or trammel nets and shall have worked at least 180 days at sea on such vessels; or  
(2) Pass a proficiency examination administered by the department. The proficiency examination shall include written and performance tests which demonstrate knowledge of the proper use of gill nets or trammel nets.

(3) Prove to the director's satisfaction that as the owner or operator of a legally registered commercial fishing vessel, he has landed at least 10,000 pounds of fish during a 12-month period, or has landed fish during a 12-month period for which he was paid at least \$10,000. Only landings of fish caught by the use of gill nets or trammel nets shall be used to satisfy the catch requirements of this subsection; or

(4) Prove to the director's satisfaction that as the owner or operator of a legally registered commercial fishing vessel, he has landed at least 1,000 pounds of fish taken in gill nets or trammel nets in 4 of the 5 license years prior to the date of application; or

(5) Have possessed a permit issued pursuant to this section during the previous season and shall have complied with subsection (f) of these regulations.

(6) Only landings and crewmember experience occurring during the five year period prior to the date of application shall be used to meet the requirements of subsection (b). The applicant shall supply documentation that he was a legally licensed commercial fisherman when he made the required landings or met the crewmember experience requirements. Crewmember experience shall be documented by fishing records submitted to the department as required by subsection ~~(j)~~ (f), or by a notarized document signed by the owner or operator of vessels ~~on~~ on which the applicant has completed the required experience. Landings of fish shall be verified by the submission of copies of landing receipts.

(c) Limitations of Permit. ~~Permits are nontransferable. Not more than one permit shall be issued to any person. Permits must be renewed annually.~~

(d) Permit Renewal. Beginning April 1, 2009, and thereafter, applications for renewal of gill net/trammel net permits shall be received by the department, or if mailed, postmarked, on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

~~(d) Duration of Permit. Except as otherwise provided, permits issued pursuant to these regulations, shall be in force from April 1 through March 31 of the following year, or if issued after the beginning of such term, for the remainder thereof.~~

(e) Cost of Permit. See section 8683 of the Fish and Game Code.

(f) Records. Pursuant to section 190 of these regulations, each permittee shall complete and submit an accurate record of all gill net and trammel net fishing activities on a form (Gill and Trammel Net Log, DFG 174 (10/89), see Appendix A) provided by the department.

(g) Conditions of Permit. Provisions of the Fish and Game Code relating to commercial fish except as modified by the provisions of these regulations, shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees or those acting, under their direction or control.

~~(h) Revocation of Permits. A permit may be revoked or canceled by the commission for a period not to exceed one year from the date of revocation upon a conviction for a violation of a provision of article 5, chapter 3, part 3, division 6 of the Fish and Game Code, or any regulation authorized by this article, or the terms or conditions of this section by the holders thereof, their agents, servants, employees, or those acting under their direction and control.~~ Revocation. As specified in Fish and Game Code Section 8681, the commission may suspend, revoke, or cancel a permit, license, and commercial fishing privileges pursuant to Fish and Game Code Section 7857.

(i) Exemptions from Permit. The owner or operator of a vessel operating under a permit issued pursuant to section 163, ~~title 14, CAC,~~ of these regulations is not required to possess the permit authorized by this section.

NOTE:

Authority cited: ~~Section~~ Sections 1050 and 8682, Fish and Game Code.

Reference: Sections 1050, 1700, 7852.2, 8568, 8680, 8681, 8682 and 8683, Fish and Game Code.

Section 180.3, Title 14, CCR, is amended to read:

**§ 180.3. Restricted Access Spot Prawn Trap Fishery.**

(a) Control Date. A control date of January 1, 1999, is established for the purpose of developing a restricted access spot prawn trap fishery. Only those vessels which have made at least one spot prawn landing with trap gear before this date may be considered for inclusion in the restricted access trap fishery. Additional vessels which have made landings of spot prawns with trawl gear between 1994 and 2001 also may be considered for inclusion in the restricted access spot prawn trap fishery (trawl conversion program).

(b) Permit Requirement, Classification of Permits and Permit Conditions. Effective April 1, 2002, no person shall use a vessel to land spot prawns for commercial purposes using traps authorized pursuant to Sections 8591 and 9001 of the Fish and Game Code, unless the owner of that vessel has a general trap permit, issued pursuant to Section 9001 of the Fish and Game Code, and a spot prawn trap vessel permit for that vessel that has not been suspended or revoked.

(1) Tier 1 Permits. Spot prawn trap vessel permits issued pursuant to subsection (c)(1) shall be considered as Tier 1 permits, and permitted vessels are authorized to use the number of traps specified for Tier 1 permits pursuant to Section 180.1(c), Title 14.

(2) Tier 2 Permits. Spot prawn trap vessel permits issued pursuant to subsection (c)(2) shall be considered as Tier 2 permits, and permitted vessels are authorized to use the number of traps specified for Tier 2 permits pursuant to Section 180.1(c), Title 14. Permitted vessels with Tier 2 permits may not exceed a maximum of 5000 pounds of spot prawns landed in any permit year. The revenue from any landings in excess of 5000 pounds in any permit year shall be forfeited to the department.

(3) Tier 3 Permits. Spot prawn trap vessel permits issued pursuant to subsection (c)(3) shall be considered as Tier 3 permits, and permitted vessels are authorized to use the number of traps specified for Tier 3 permits pursuant to Section 180.1(c), Title 14. Tier 3 permits shall also be known as trawl conversion permits.

(c) Initial Issuance Criteria. A spot prawn trap vessel permit for a specific tier shall be issued only to the following persons for use on qualifying vessels:

(1) Tier 1 Permits. A person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code in each of the 1997-98, 1998-99, and 1999-2000 permit years, and has made landings of spot prawns utilizing traps on or before January 1, 1999, as documented by landing receipts that were delivered to the department pursuant to Section 8046 of the Fish and Game Code, and who has satisfied at least one of the following minimum vessel-based landing requirements:

(A) at least 20 landings of spot prawns, utilizing traps, in each of the calendar years 1997, 1998, and 1999;

(B) at least 2,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1997, 1998, and 1999;

(C) at least 10,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1998 and 1999.

(2) Tier 2 Permits.

(A) A person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code in each of the 1997-98, 1998-99, and 1999-2000 permit years, and has made landings of spot prawns utilizing traps on or before January 1, 1999, as documented by landing receipts that were delivered to the department pursuant to Section 8046 of the Fish and Game Code, and who does not satisfy any of the minimum landing requirements in subsection (c)(1) and has satisfied at least one of the following minimum vessel-based landing requirements:

1. at least 10 landings of spot prawns, utilizing traps, in calendar year 1998;
2. at least 1,000 pounds of spot prawns landed, utilizing traps, in calendar year 1998.

(B) Any individual, who has been licensed as a California commercial fisherman for at least 20 years, and who has participated in the commercial spot prawn trap fishery for at least one of those years, and who has made at least 20 landings of spot prawns, using traps, totaling at least 10,000 pounds in one of those years, shall be issued a Tier 2 permit.

(3) Tier 3 Permits. Prawn points will be used to determine eligibility for initial issuance of Tier 3 permits. Any person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code between 1994 and 2001 will receive points based on spot prawn landings made utilizing trawl gear.

(A) Points will be awarded to a vessel based on landing history between January 1, 1994 through December 31, 2001 as documented by fish landing receipts that were submitted to the department pursuant to Section 8046 of the Fish and Game Code in the vessel's name and commercial boat registration number as follows:

1. One hundred prawn points will be earned for each calendar year in which the vessel made a landing of spot prawn with trawl gear between 1994 and 2001.
2. One prawn point will be earned for every 500 pounds of spot prawn the vessel landed with trawl gear between 1994 and 2001; and
3. One prawn point will be earned for each landing of spot prawn a vessel made with trawl gear between 1994 and 2001;

(B) A vessel must have in excess of 1,000 prawn points to qualify for initial issuance of a Tier 3 permit.

(d) Capacity Goal. The commission has determined that the spot prawn trap fishery capacity goal for Tier 1 and Tier 3 permits combined shall be 17. The commission has determined that the spot prawn trap fishery capacity goal for Tier 2 permits shall be 0.

(e) Application Deadline for Initial Issuance of Spot Prawn Trap Vessel Permits.

(1) Tier 1 and Tier 2 Permits. All applications and permit fees for initial issuance of Tier 1 and Tier 2 spot prawn trap vessel permits must be received by the department or, if mailed, must be postmarked no later than June 30, 2002. Applications for initial issuance of a spot prawn trap vessel permit received from July 1 through July 31, 2002 shall be considered late and will be assessed a late fee. Applications and monies due for the initial issuance of Tier 1 and Tier 2 spot prawn trap vessel permits not received or, if mailed, not postmarked, by July 31, 2002 shall be returned to the applicant unissued.

(2) Tier 3 Permits. All applications (FG 1424 (new, 8/04) incorporated by reference herein) and permit fees for initial issuance of Tier 3 spot prawn trap vessel permits must be received by the department or, if mailed, must be postmarked no later than February 28, 2005. Applications for initial issuance of Tier 3 spot prawn trap vessel permits received from March 1 through March 31, 2005 shall be considered late and will be assessed a late fee pursuant to subsection (n). Applications and monies due for initial issuance of Tier 3 spot prawn trap vessel permits not received or, if mailed, not postmarked, by March 31, 2005 shall be returned to the applicant unissued.

(f) Minimum Landing Requirements for Spot Prawn Trap Vessel Permit Renewal. No minimum landings of prawns shall be required to be eligible for renewal of a spot prawn trap vessel permit.

(g) Annual Spot Prawn Trap Vessel Permit Renewal. Applications [FG 1422 (Rev. 11/05) incorporated by reference herein] for renewal of a spot prawn trap vessel permit shall be received by the department, or, if mailed, postmarked, by April 30 of each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2. ~~Applications for a spot prawn trap vessel permit received from May 1 to May 31 will be assessed a late fee pursuant to subsection (n). Spot prawn trap vessel permit renewals received after May 31, or if mailed, postmarked after May 31, shall become expired, shall be returned unissued to the applicant, and shall no longer be eligible for renewal in subsequent years.~~

(h) Presence of Owner on Vessel. An owner of the vessel to which the spot prawn trap vessel permit has been issued must be on the vessel when spot prawns are being taken or landed, except that one additional operator may be designated during a license year by informing the department in writing with a letter sent to the department's office in Monterey, Department of Fish and Game, Marine Region, 20 Lower Ragsdale Drive, Suite 100, Monterey, California 93940.

~~(i) Appeal for Reinstatement of an Expired Spot Prawn Trap Vessel Permit. Any applicant who is denied issuance of a spot prawn trap vessel permit for failure to submit an application prior to the application deadline may appeal to the department in writing. The appeal for reinstatement of an expired spot prawn trap vessel permit shall be received by the department or, if mailed, postmarked on or before March 31 following the permit year in which the applicant last held a valid spot prawn trap vessel permit.~~

~~(j) (i) Revocation of Permit. A spot prawn trap vessel permit shall be revoked if the permittee fails to:~~

~~(1) renew the permit or annually renew his or her commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code; or~~

~~(2) submits false information for the purposes of obtaining a spot prawn trap vessel permit.~~

~~(k) (j) Transfer of a Spot Prawn Trap Vessel Permit to Another Vessel. A transfer of a spot prawn trap vessel permit to another vessel may be approved for use on a replacement vessel only if all of the following criteria are met:~~

~~(1) In the form of a notarized letter, the owner of the vessel which is issued a permit shall submit an application for transfer of a Spot Prawn Trap Vessel Permit to the department.~~

In the form of a notarized letter, the owner of the vessel which has a valid

Spot Prawn Trap Vessel Permit shall submit a request for transfer of a Spot Prawn Trap Vessel Permit to the department.

~~(2) The vessel owner pays the non-refundable transfer fee specified in subsection (n)-  
(m) to the department.~~

~~(3) Unless the vessel was lost, stolen, or destroyed, a permit may not be transferred more than once during any permit year 12-month period.~~

~~(4) The spot prawn trap vessel permit for the permitted vessel is valid, and has not been suspended or revoked current.~~

~~(5) The permitted vessel owner has written authority from the legal owner and/or partners, or mortgager, of the vessel, to which the permit shall be transferred, to transfer the spot prawn trap vessel permit from the permitted vessel.—The owner of a vessel with a valid Spot Prawn Trap Vessel Permit has written authority from the legal owner and/or partners, or mortgager, of the replacement vessel, to which the permit shall be transferred, to transfer the Spot Prawn Trap Vessel Permit from the permitted vessel to the replacement vessel.~~

~~(l) Change of Ownership of a Spot Prawn Trap Vessel Permit.)~~

~~(1) Tier 2 spot prawn trap vessel permits shall not be transferred to another person. Tier 2 permits shall become null and void upon death of the permit holder.~~

~~(2) All Tier 1 spot prawn trap vessel permits shall be transferable to another person, but not more than once within any 3-year period, and not before April 1, 2005. Upon the death of the permittee, transfer of a Tier 1 spot prawn vessel permit may be considered if the estate makes application, in the form of a notarized letter, for the transfer within one year of the date of death as listed on the death certificate.~~

~~(3) Tier 3 spot prawn trap vessel permits shall not be transferred to another person. Tier 3 permits shall become null and void upon death of the permit holder.~~

~~(4) A change of ownership of a Tier 1 spot prawn trap vessel permit to another person may be approved only if the vessel owner submits a written request for change of ownership to the department and pays a non-refundable change of ownership fee. Thereafter, upon notice to the department, the person purchasing the spot prawn trap vessel permit may use that permit for the taking and landing of spot prawns for any and all of the unexpired portion of the permit year, provided the following requirements are met:~~

~~(A) the person purchasing the permit shall have a valid commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code that has not been suspended or revoked, and a general trap permit issued pursuant to Section 9001 of the Fish and Game Code,~~

~~(B) the person is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code. The person receiving the permit shall be eligible for a permit, pursuant to the provisions of this section, for the use of that vessel in subsequent years.~~

~~(5) Notwithstanding the transfer of ownership provisions in subsection (l) for Tier 1, upon the death of a spot prawn trap vessel Tier 1 permittee the estate may apply to the department to transfer that permit to the estate. The application for transfer shall be received by the department within one year of the death of the permittee.~~

(k) Change of Ownership of a Spot Prawn Trap Vessel Permit.

(1) All Tier 1 spot prawn trap vessel permits shall be transferable to another person, but not more than once within any 3-year period. Upon the death of the permittee, transfer of a Tier 1 spot prawn vessel permit may be considered if the estate submits a notarized letter for the change of ownership to the department, within one year of the death of the permittee as listed on the death certificate.

(2) A change of ownership of a Tier 1 spot prawn trap vessel permit to another person may be approved only if the vessel owner submits a notarized statement for change of ownership to the department. Thereafter, upon notice to the department, the person purchasing the spot prawn trap vessel permit may use that permit for the taking and landing of spot prawns for any and all of the unexpired portion of the permit year, provided the following requirements are met:

(A) the person purchasing the permit shall have a valid commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code that has not been suspended or revoked, and a general trap permit issued pursuant to Section 9001 of the Fish and Game Code that has not been suspended or revoked.

(B) the person is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code that has not been suspended or revoked. The person receiving the permit shall be eligible for a permit, pursuant to the provisions of this section, for the use of that vessel in subsequent years.

(3) Notwithstanding the transfer of ownership provisions in subsection (k) for Tier 1, upon the death of a spot prawn trap vessel Tier 1 permittee the estate may apply to the department to transfer that permit to the estate. The request for transfer shall be received by the department within one year of the death of the permittee.

(4) The vessel owner pays the non-refundable transfer fee specified in subsection (m) to the department.

(5) Tier 2 spot prawn trap vessel permits shall not be transferred to another person. Tier 2 permits shall become null and void upon death of the permit holder.

(6) Tier 3 spot prawn trap vessel permits shall not be transferred to another person. Tier 3 permits shall become null and void upon death of the permit holder.

(m) (l) Appeals.

(1) Any applicant who is denied initial issuance of a spot prawn trap vessel Tier 1 or Tier 2 permit for any reason may appeal that denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31, 2003. Any applicant who is denied initial issuance of a Tier 3 spot prawn trap vessel permit for any reason may appeal that denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than September 30, 2005. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision

~~(2) Any applicant who is denied renewal of a spot prawn trap vessel permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid spot prawn trap vessel permit. The appeal shall be reviewed and decided by the department. The decision of the department may~~

~~be appealed in writing to the commission within 60 days of the date of the department's decision.~~ Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(3) Any applicant who is denied transfer of a spot prawn trap vessel permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

~~(n)~~ (m) Fees.

(1) Tier 3 Initial Issuance Fee. The department shall charge a fee for each Tier 3 spot prawn trap vessel permit of \$1,015.

(2) Annual Renewal Fee. The department shall charge an annual fee for each Tier 1 and Tier 2 spot prawn trap vessel permit of \$266.50. The department shall charge an annual renewal fee for each Tier 3 spot prawn trap vessel permit of \$1,066.25. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(3) Vessel Transfer Fee. The department shall charge a non-refundable fee of \$200 for each vessel transfer.

(4) Change of Ownership Fee. The department shall charge a non-refundable fee of \$50 for each change of ownership of the spot prawn trap vessel permit.

(5) Initial Issuance Late Fees. The department shall charge a non-refundable late fee of \$50 if an application for initial issuance of a Tier 1 or Tier 2 spot prawn trap vessel permit is received from July 1 to July 31, 2002. The department shall charge a non-refundable late fee of \$50 if an application for initial issuance of a Tier 3 spot prawn trap vessel permit is received from March 1 to March 31, 2005.

~~(6) Renewal Late Fee. The department shall charge a non-refundable late fee of \$50 if an application for renewal of a spot prawn trap vessel permit is received from May 1 to May 31.~~

NOTE: Authority cited: Sections 713, 1050 and 8591, Fish and Game Code. Reference: Sections 1050, 7852.2, 8101, 8591, 8593, 8594, 8595, 9000, 9001 and 9015, Fish and Game Code.