

Regulatory Language

Section 150, Title 14, CCR is amended as follows:

§ 150. Nearshore Fishery Restricted Access Program.

[...No proposed changes to subsection (a)]

(b) The department shall issue a Nearshore Fishery Permit for a regional management area described in Section 52.04, ~~Title 14, CCR~~ to each nearshore fishery permittee who meets the regional qualifying criteria below. A person will receive only one Nearshore Fishery Permit for use in only one regional management area and cannot hold a valid permit for more than one regional management area. A person meeting the qualifications for more than one regional management area must make a permanent, irrevocable decision prior to obtaining a Nearshore Fishery Permit for the 2003-2004 permit year to fish in one regional management area. The permit shall not be changed to another regional management area under any circumstances.

[...No proposed changes to subsections (c) through (d)]

(e) Initial Qualification for 20-year California Commercial Fishermen. During the initial year of the nearshore restricted access program, any person who has been licensed as a California commercial fisherman for at least 20 years at the time of application, and who does not qualify for a permit in (d)(1), (2), (3), or (4) above, and who has participated in the commercial nearshore fishery for at least one of those years as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, upon application shall be issued a Non-Transferable Nearshore Fishery Permit for one regional management area, based on the following minimum landing requirements in subsection (e)(1), (2), (3), or (4) below:

(1) landed at least 200 pounds of nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, ~~Title 14, CCR~~.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(1) are designated Non-Transferable North Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, in the North Coast Region only.

(2) landed at least 650 pounds of nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04, ~~Title 14, CCR~~.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(2) are designated

Non-Transferable North-Central Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, in the North-Central Coast Region only.

(3) landed at least 1,050 pounds of nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the South-Central Coast Region as defined in Section 52.04, ~~Title 14, CCR~~.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(3) are designated Non-Transferable South-Central Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, in the South-Central Coast Region only.

(4) landed at least 800 pounds of nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the South Coast Region as defined in Section 52.04, ~~Title 14, CCR~~.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(4) are designated Non-Transferable South Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, in the South Coast Region only.

~~(5) A non-transferable Nearshore Fishery Permit shall become null and void upon the death of the permit holder.~~

[...*No proposed changes to subsection (f)*]

(g) Permit Transfers, Procedures and Timelines.

~~(1) If the combined total of transferable and non-transferable Nearshore Fishery permits in a regional management area is greater than the capacity goal for that regional management area on or after April 1, 2003, the following provisions for permit transfers are in effect:~~

~~(A) A Nearshore Fishery Permit issued pursuant to this section may be voluntarily transferred by the permittee, if the transferee (person to whom the permit is to be issued) has never been convicted of a violation of any provision of these regulations or of the Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR. Until the number of permits in a regional management area equals or falls below the capacity goal for that regional management area, a permit may only be transferred if one additional transferable permit for the same regional management area is surrendered to the department for cancellation at the same time the application for the transfer is submitted to the department.~~

~~(B) A Nearshore Fishery Permit may be transferred pursuant to this section to a person only if that person holds a commercial fishing license issued pursuant to Fish and Game Code Section 7850 and submits to the department a notarized letter from each of the permittees described in subdivision (A), that each includes a statement identifying the~~

person to whom the Nearshore Fishery Permit is to be transferred and setting forth the conditions of the transfer.

~~(C) Application for transfer of a Nearshore Fishery Permit, in the form of a notarized letter, shall be submitted to the department by the transferee.~~

~~(D) Upon determining that the transferee of the Nearshore Fishery Permit is qualified to receive a Nearshore Fishery Permit and upon payment of all permit and transfer fees, the department shall issue a Nearshore Fishery Permit for that regional management area to the transferee that is valid for the remainder of the then current fishing season. At the time the permit transfer is complete the additional transferable Nearshore Fishery Permit is required to be surrendered by the transferee pursuant to subsection (g)(1)(A). If the transferee holds a Non-Transferable Nearshore Fishery Permit, that permit shall be cancelled.~~

~~(E) After the transfer of a person's Nearshore Fishery Permit, the former permit holder may not take, possess, transfer, or sell any nearshore fish stocks as described in Section 150.01, Title 14, CCR, for commercial purposes unless otherwise permitted by law.~~

~~(2) Should the combined total of transferable and non-transferable Nearshore Fishery Permits in a regional management area fall below the capacity goal, the commission may prescribe criteria for the transfer of permits or the issuance of additional permits pursuant to the Administrative Procedure Act following public notice and not less than one public hearing.~~

~~(3) A transferable Nearshore Fishery Permit issued pursuant to this section may be transferred to the estate of a permittee who has died only for the purpose of transferring the Nearshore Fishery Permit to another person.~~

~~(A) Such transfer 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.~~

~~(B) The estate is responsible for any permit renewal fees under subsection (n) of this Section or Section 150.03, Title 14, CCR.~~

~~(4) The Nearshore Fishery Permit in the estate of a deceased permittee may be transferred to any person who meets all of the following qualifications:~~

~~(A) The person, at that time, holds a commercial fishing license issued pursuant to Fish and Game Code Section 7850.~~

~~(B) The person has never been convicted of a violation of any provision of these regulations or of the Fish and Game Code pertaining to the commercial take of nearshore fish stocks.~~

~~(C) The transfer of the permit is subject to subsection (g)(1) and (2) above.~~

~~(5) A Nearshore Fishery Permit in the estate of a deceased permittee that is transferred to an immediate family member (spouse, child, grandchild, parent, or sibling) or to a partner as described in Fish and Game Code Section 8102 is exempt from the requirements in subsection (g)(1) and (2) above.~~

(1) Pursuant to Fish and Game Code Section 8587.1(b), Fish and Game Code Section 7857(j) is made inoperative as applied to the commercial nearshore fishery.

(2) A person with a valid transferable nearshore fishery permit that has not been

suspended or revoked may transfer his/her permit to a licensed California commercial fisherman. The permit shall be transferred for use in the same regional management area listed on the permit.

(3) Upon the death of a person with a valid transferable nearshore fishery permit, that person's estate shall immediately, temporarily relinquish the permit to the department's License and Revenue Branch. The estate may renew the permit as provided for in this section if needed to keep the permit valid. The estate of the decedent may transfer the permit pursuant to this section no later than two (2) years from the date of death of the permit holder as listed on the death certificate.

(4) The permit holder or the estate of the deceased permit holder shall submit the notarized transfer application and the nonrefundable permit transfer fee specified in Section 705 for each permit transfer. The transfer shall take effect on the date on the written notice of approval of the application given to the transferee by the department. The nearshore fishery permit shall be valid for the remainder of the permit year and may be renewed in subsequent years pursuant to this section.

(5) An application for a transfer of a nearshore fishery permit shall be deferred when the current permit holder is awaiting final resolution of any pending criminal, civil and/or administrative action that could affect the status of the permit.

(6) If a transferable nearshore fishery permit is transferred to a person with a valid non-transferable nearshore fishery permit, the non-transferable nearshore fishery permit shall become null and void and the permit shall be immediately surrendered to the department's License and Revenue Branch.

(7) Upon the death of a person with a valid non-transferable nearshore fishery permit, the permit shall become null and void and the estate shall immediately surrender the permit to the department's License and Revenue Branch.

[...No proposed changes to subsections (h) through (l)]

(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) 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.~~
Any person who is denied transfer of a transferable nearshore fishery permit may submit a written request for an appeal to the commission within 60 calendar days of the date of the department's denial.

(n) Fees. Notwithstanding Fish and Game Code Section 8587, the fees for a Nearshore Fishery Permit under the restricted access program shall be as follows:

(1) The department shall charge an annual fee for each transferable Nearshore Fishery Permit as specified in Section 705.

(2) The department shall charge an annual fee for each Non-Transferable Nearshore Fishery Permit as specified in Section 705.

(3) The department shall charge a non-refundable fee for each permit transfer as specified in Section 705. ~~If more than one permit is required for the transfer, the fee specified in Section 705 shall be charged.~~

[...No proposed changes to subsection (o)]

Note: Authority cited: Sections 713, 1050, 7071 and 8587.1, Fish and Game Code.
Reference: Sections 713, 1050, 7071, 7850, 7852.2, 7857, 7858, 8043, 8046, 8102, 8587, 8587.1, 8588, 8589.5 and 8589.7, Fish and Game Code.

Section 150.02, Title 14, CCR is amended as follows:

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

[...No proposed changes to subsections (a) through (c)]

(d) Fees.

(A) The fee for a deeper nearshore species fishery permit is specified in Section 705.

(B) The nonrefundable fee to transfer a deeper nearshore species fishery permit is specified in Section 705.

[...No proposed changes to subsections (e) through (i)]

(j) Permit Transfers, Procedures, and Timelines.

(1) Pursuant to Fish and Game Code Section 8587.1(b), Fish and Game Code Section 7857(j) is made inoperative as applied to the commercial deeper nearshore fishery.

(2) Upon the effective date of these regulations, each person possessing a valid deeper nearshore species fishery permit that has not been suspended or revoked shall have his or her permit designated by the department as a transferable deeper nearshore species fishery permit.

(3) A person with a valid transferable deeper nearshore species fishery permit that has not been suspended or revoked may transfer his/her permit to a licensed California commercial fisherman.

(4) Upon the death of a person with a valid transferable deeper nearshore species fishery permit, the estate of a person with a valid transferable deeper nearshore species fishery permit shall immediately temporarily relinquish the permit to the department's License and Revenue Branch. The estate may renew the permit as provided for in this section if needed to keep the permit valid. The estate of the decedent may transfer the permit pursuant to this section no later than two (2) years from the date of death of the permit holder as listed on the death certificate.

(5) The permit holder or the estate of the deceased permit holder shall submit the notarized transfer application and the nonrefundable permit transfer fee specified in Section 705 for each permit transfer. The transfer shall take effect on the date of the written notice of approval of the application given to the transferee by the department. The deeper nearshore species fishery permit shall be valid for the remainder of the permit year and may be renewed in subsequent years pursuant to this section.

(6) An application for a transfer of a deeper nearshore species fishery permit shall be deferred when the current permit holder is awaiting final resolution of any pending criminal, civil and/or administrative action that could affect the status of the permit.

(7) Any applicant who is denied transfer of a deeper nearshore species fishery permit may submit a written request for an appeal to the commission within 60 calendar days of the date of the department's denial.

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.

Section 150.03, Title 14, CCR is amended as follows:

§ 150.03. Nearshore Fishery Gear Endorsement Program.

[...No proposed changes to subsections (a) through (b)]

(c) Qualifications for Gear Endorsement. A transferable gear endorsement shall be issued upon application only to a person who has a valid 2003-2004 transferable Nearshore Fishery Permit, issued pursuant to Section 150, ~~Title 14, CCR~~, for a specific regional management area as defined in Section 52.04, ~~Title 14, CCR~~. A non-transferable gear endorsement shall be issued upon application only to a person who has a valid 2003-2004 non-transferable Nearshore Fishery Permit, issued pursuant to Section 150, ~~Title 14, CCR~~, for a specific regional management area as defined in Section 52.04, ~~Title 14, CCR~~. The following qualifying criteria shall be used to determine eligibility for either a transferable or non-transferable trap endorsement:

(1) North Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, in addition to gear authorized under Section 150(l), ~~Title 14, CCR~~. A trap endorsement shall be attached to the North Coast Region Nearshore Fishery Permit issued to a person who has satisfied the following requirements:

(A) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and

(B) has landed at least 1,000 pounds of nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, between January 1, 1994 and October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, ~~Title 14, CCR~~, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(2) North-Central Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, in addition to gear authorized under Section 150(l), ~~Title 14, CCR~~. A trap endorsement shall be attached to the North-Central Coast Region Nearshore Fishery Permit issued to a person who has satisfied the following requirements:

(A) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and

(B) has landed at least 1,000 pounds of nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, between January 1, 1994 and October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, used to qualify must have been made at ports located within the North-Central Coast Region as defined in Section 52.04, ~~Title 14, CCR~~, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(3) South-Central Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, in addition to gear authorized under Section 150(l), ~~Title 14, CCR~~. A trap endorsement shall be attached to the South-Central Coast Region Nearshore Fishery Permit issued to a person who has satisfied the requirements of either (A), or (B) and (C) below:

(A) has a valid 2002-2003 finfish trap permit that has not be suspended or revoked, or

(B) has a valid 2002-2003 general trap permit that has not been suspended or revoked, and has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, in each of 3 calendar years during the period January 1, 1994 through October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, used to qualify must have been made at ports located within the South-Central Coast Region as defined in Section 52.04, ~~Title 14, CCR~~, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(4) South Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, ~~Title 14, CCR~~, in addition to gear authorized under Section 150(l), ~~Title 14, CCR~~. A trap endorsement shall be attached to the South Coast Region Nearshore Fishery Permit

issued to a person who has a valid 2002-2003 finfish trap permit that has not been suspended or revoked.

~~(5) A non-transferable trap endorsement issued under this Section shall become null and void upon the death of the permit holder.~~

~~(d) Transfer of Nearshore Fishery Permit Gear Endorsements. The transfer of a Nearshore Fishery Permit gear endorsement is subject to the provisions of Section 150(g), Title 14, CCR. Only one Nearshore Fishery Permit gear endorsement is required to transfer the gear endorsement to a new permittee.~~
Gear Endorsement Transfers, Procedures, and Timelines.

(1) Pursuant to Fish and Game Code Section 8587.1(b), Fish and Game Code Section 7857(j) is made inoperative as applied to the commercial nearshore fishery.

(2) A person with a valid transferable nearshore fishery gear endorsement that has not been suspended or revoked may transfer his/her nearshore fishery gear endorsement to a licensed California commercial fisherman with a valid Nearshore Fishery Permit for the same regional management area. The nearshore fishery gear endorsement shall be transferred for use in the same regional management area listed on the nearshore fishery gear endorsement.

(3) Upon the death of a person with a valid transferable nearshore fishery gear endorsement, the estate of a person with a valid transferable nearshore fishery gear endorsement shall immediately, temporarily relinquish the nearshore fishery gear endorsement to the department's License and Revenue Branch. The estate may renew the nearshore fishery gear endorsement as provided for in this section if needed to keep the nearshore fishery gear endorsement valid. The estate of the decedent may transfer the nearshore fishery gear endorsement pursuant to this section no later than two years from the date of death of the nearshore fishery gear endorsement holder as listed on the death certificate.

(4) The nearshore fishery gear endorsement holder or the estate of the deceased nearshore fishery gear endorsement holder shall submit the notarized transfer application and the nonrefundable nearshore fishery gear endorsement transfer fee specified in Section 705 for each gear endorsement transfer. The transfer shall take effect on the date of the written notice of approval of the application given to the transferee by the department. The nearshore fishery gear endorsement shall be valid for the remainder of the permit year and may be renewed in subsequent years pursuant to this section.

(5) An application for a transfer of a nearshore fishery gear endorsement shall be deferred when the current nearshore fishery gear endorsement holder is awaiting final resolution of any pending criminal, civil and/or administrative action that could affect the status of the nearshore fishery gear endorsement.

(6) Upon the death of a person with a valid non-transferable nearshore fishery gear endorsement, the nearshore fishery gear endorsement shall become null and void and the estate shall immediately surrender the nearshore fishery gear endorsement to the department's License and Revenue Branch.

[...No proposed changes to subsections (e) through (g)]

(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) 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.~~ Any applicant who is denied transfer of a transferable nearshore fishery gear endorsement may submit a written request for an appeal to the commission within 60 calendar days of the date of the department's denial.

[...No proposed changes to subsections (i) through (k)]

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 705(b), Title 14, CCR is amended as follows:

§ 705 Commercial Fishing Applications, Permits, Tags and Fees.

Fees (US\$)

[...No proposed change to subsection (a)]

(b) Transfer, Upgrade, or Change of Ownership

[...No proposed changes to subsections (b)(1) through (b)(4)]

(5) Nearshore Fishery Permit And Nearshore Fishery Trap Endorsement Transfer Application DFW 1045 (New 4/2017), incorporated by reference herein.

(A) Nearshore Fishery Permit Transfer

5001,000.0

0-2,500.00

~~(6)(B)~~ Nearshore Fishery Trap Endorsement Transfer 75.00

(6) Deeper Nearshore Species Fishery Permit Transfer
Application DFW 1048 (New 4/2017) incorporated by
reference herein.

(A) Deeper Nearshore Species Fishery Permit Transfer [1,000.00-
2,500.00]

[...No proposed changes to subsections (b)(7) through (b)(11), (c) and (d)]

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