

AMENDED REGULATORY TEXT

Section 132.2, Title 14, California Code of Regulations, is amended to read:

§ 132.2. Waiver for a Vessel to Retrieve a Permitted Dungeness Crab Vessel's Retrieval of Commercial Dungeness Crab Traps.

(a) ~~No vessel shall~~ Permitted Dungeness crab vessels shall not possess, use, control, or operate any commercial Dungeness crab trap without a buoy tag assigned to that vessel except:

- (1) To set gear as allowed under Section 8280.7 of the Fish and Game Code; or
- (2) To retrieve from the ocean and transport to shore another permitted Dungeness crab vessel's commercial Dungeness crab trap(s) of a permitted Dungeness crab vessel that were ~~trap that is~~ lost, damaged, abandoned, or otherwise derelict, provided that:

(A) No more than six (6) derelict commercial Dungeness crab traps may be retrieved per fishing trip ~~except as provided in subparagraphs (E) and (F).~~

(B) ~~Crab from the retrieved Dungeness crab trap(s) shall not be retained and shall be returned.~~ The retrieving vessel shall return to the ocean waters immediately any crab found in a retrieved commercial Dungeness crab trap.

(C) Immediately upon retrieval of a commercial Dungeness crab ~~trap(s)~~ trap the retrieving vessel operator shall document in the retrieving vessel's log the date and time of the trap retrieval, number of retrieved Dungeness crab traps, the location of the retrieval, and ~~retrieved trap tag information~~ any tag information or buoy markings present on the retrieved trap.

(D) Any retrieved commercial Dungeness crab ~~trap(s)~~ trap shall be transported to shore during the same fishing trip that retrieval took place.

(E) Notwithstanding subsection (a)(2)(A), ~~From~~ from July 16 through October 31, an unlimited number of commercial Dungeness crab traps may be retrieved per fishing trip and transported to shore during the same fishing trip.

~~(F) Under a waiver granted by the department, retrieval of more than six (6) by another vessel is allowed if:~~

- ~~1. The Dungeness crab permitted vessel is incapacitated due to a major mechanical failure or destroyed due to fire, capsizing, or sinking, or;~~
- ~~2. Circumstances beyond the control of the permit holder created undue hardship.~~

- ~~3. A request for the waiver shall be submitted in writing to the department's License and Revenue Branch.~~
- ~~4. A copy of the waiver approved by the department shall be on board the vessel making the retrieval.~~
- ~~5. The waiver may include conditions such as time period to conduct retrieval, landing prohibitions or any other criteria the department deems necessary.~~

(b) Waiver

(1) Any vessel may retrieve to shore commercial Dungeness crab traps without a buoy tag assigned to that vessel if:

(A) The holder of the Dungeness crab vessel permit to which the traps are assigned cannot retrieve the traps because the permitted vessel is incapacitated due to a major mechanical failure or destroyed due to fire, capsizing, or sinking, or due to undue hardship resulting from circumstances beyond the control of the permit holder.

(B) The permit holder makes a request for a waiver in writing to the department's License and Revenue Branch.

(C) The department approves the waiver request.

(2) A copy of the waiver approved by the department shall be on board the retrieving vessel.

(3) The waiver may include conditions such as time restrictions, landing prohibitions, or any other conditions the department deems necessary.

~~(3) To retrieve lost or abandoned gear under Section 132.7 of these regulations.~~

(c) Notwithstanding this section, any vessel may retrieve lost or abandoned gear under Section 132.7 of these regulations.

NOTE: Authority cited: 8276.5 and 9002.5, Fish and Game Code.

Reference: Section 8276.5 and 9002.5, Fish and Game Code.

AMENDED REGULATORY TEXT

Section 132.7, Title 14, CCR, is added to read as follows:

§ 132.7 Lost or Abandoned Dungeness Crab Trap Gear Retrieval Program.

(a) Commercial Dungeness crab trap gear left in the ocean after the close of the commercial Dungeness crab season is declared to be lost or abandoned and subject to retrieval under the terms of this Section.

(b) Lost or Abandoned Dungeness Crab Trap Gear Retrieval Permit Required. Pursuant to Section 9002.5 of the Fish and Game Code, the department may grant a Lost or Abandoned Commercial Dungeness Crab Trap Gear Retrieval Permit (“Retrieval Permit”) to aid in the retrieval of lost or abandoned traps after the close of the commercial Dungeness crab season under the requirements of the Trap Gear Retrieval Program set forth herein. For the purposes of this Section, trap gear is defined as the trap and any attached lines or buoys. Retrieval Permits shall expire each year on December 31st.

(c) Retrieval Permit Application. Applications for a Lost or Abandoned Commercial Dungeness Crab Trap Gear Retrieval Permit (DFW 1078; New 04/25/19), incorporated herein by reference, and a form allowing for its amendment (DFW 1078a; New 01/23/19), incorporated herein by reference, shall be made available online.

(1) An applicant for a Retrieval Permit shall only be:

(A) a charitable organization as defined by 26 U.S.C. § 501(c)(3);

(B) a sport or commercial fisherman association; or,

(C) a government entity in California.

(2) At the time of filing a Retrieval Permit Application, the applicant shall submit a non-refundable Lost or Abandoned Commercial Dungeness Crab Trap Gear Retrieval Permit Application Fee, as specified in Section 705.

(3) At the time of filing a Retrieval Permit Amendment, the applicant shall submit a non-refundable Lost or Abandoned Commercial Dungeness Crab Trap Gear Retrieval Permit Amendment Fee, as specified in Section 705.

(d) Lost or abandoned trap gear may only be retrieved by individuals (“Designated Retrievers”) using a vessel identified on a Retrieval Permit, as modified by any subsequent Retrieval Permit Amendment of that Retrieval Permit. A holder of a Retrieval Permit (“Retrieval Permittee”) shall ensure the following:

(1) Every Designated Retriever under its Retrieval Permit is a commercial fishing license holder who has not had a commercial license or permit revoked or suspended and is not awaiting final resolution of any pending criminal, civil, and/or administrative action that could affect the status of the commercial license or permit.

(2) Every Designated Retriever under its Retrieval Permit has landed or has participated in landing in a commercial trap fishery in any of the previous three calendar years.

(3) Every Designated Retriever under its Retrieval Permit has access to use a commercial pump to help dislodge traps that are silted in place.

(4) No more than 10 Designated Retrievers, and 10 associated vessels, may operate under a given Retrieval Permit. A Retrieval Permittee may amend its list of Designated Retrievers and its list of vessels by submitting a Retrieval Permit Amendment to the department.

(e) Trap Gear Retrieval Logbooks. A Retrieval Permittee shall ensure that each Designated Retriever complete an accurate record of the trap gear retrieval on a Trap Gear Retrieval Logbook (DFW 1059; New 04/25/19), incorporated herein by reference, which contains instructions regarding submission to the department. Trap Gear Retrieval Logbooks shall be kept on the vessel while it is engaged in, or returning from, trap gear retrieval operations.

(f) Trap Gear Retrieval Permit Operations.

A Designated Retriever may retrieve lost or abandoned trap gear in an area starting 15 calendar days after the commercial Dungeness crab fishing season closes in that area pursuant to Fish and Game Code Section 8276 and until September 30 of that year. At no time may retrieval operations occur in an area open to commercial Dungeness crab fishing or during a designated pre-season gear setting period. Only trap gear with a Dungeness crab buoy tag issued by the department pursuant to Section 8276.5 of the Fish and Game Code can be retrieved. To the extent practicable, any lines or buoys attached to the trap shall also be retrieved.

(1) Each Designated Retriever shall keep in his/her possession a legible copy of the Retrieval Permit he/she is operating under that identifies the Designated Retriever and their associated vessel while conducting retrieval operations. At least one person aboard the vessel needs to be a Designated Retriever.

(2) Retrieved trap gear shall be stored at a secure location until collected by the Responsible Vessel Permitholder or disposed of by the Retrieval Permittee pursuant to subsection (h)(4).

(3) Designated Retrievers and Retrieval Permittees shall, to the extent possible, prevent any additional physical damage to retrieved trap gear. Buoy tags, crab trap tags, and any other markings may not be removed from the gear until it has been documented in the Trap Gear Retrieval Logbook and processed pursuant to subsection (h).

(4) The department may enter and conduct unannounced visits to inspect facilities and vessels of a Retrieval Permittee or a Designated Retriever used as part of the trap retrieval operation. The department may also inspect, audit, or copy at any time any permit, license, book, or record required to be kept under these regulations.

(5) A Designated Retriever who observes lost or abandoned commercial Dungeness crab trap gear located in an area where take of Dungeness crab by trap is prohibited shall inform the department Law Enforcement Division through the CalTIP Program at 1-888-334-CalTIP (888-334-2258). A Designated Retriever may not retrieve such trap gear without written or verbal authorization from the department Law Enforcement Division.

(g) A Retrieval Permit may be suspended or revoked by the department for the violation of any provision of any California regulation, California Code, local ordinance, federal regulation, federal code, or the terms of the Retrieval Permit by the Retrieval Permittee or any of its Designated Retrievers. An entity whose Retrieval Permit has been suspended or revoked must turn over all records produced and all traps retrieved under the terms of this program pursuant to the Department's direction.

(h) A Dungeness crab vessel permitholder ("Responsible Vessel Permitholder") shall be liable to pay a Retriever Trap Fee on a per trap basis for each retrieved trap identified by a buoy tag, a buoy marked pursuant to Section 9006 of the Fish and Game Code, or a trap tag required by Section 132.1, Title 14, CCR as associated with his/her vessel permit.

(1) Retrieval Permittees and Responsible Vessel Permitholders may freely negotiate the amount of the Retriever Trap Fee.

~~(2) A Retrieval Permittee shall use certified mail to contact the Responsible Vessel Permitholder associated with retrieved trap gear via text, email or certified letter within one week of the trap gear being retrieved. The text, email or certified letter shall include contact information for the Retrieval Permittee, the number of~~

~~traps retrieved, the date the traps were retrieved, and that the traps were retrieved under this Section. Letter shall be postmarked within one week of the trap gear being retrieved. Retrieval Permittee shall maintain record of the text or email, or a copy of the letter and the certified mail receipt for at least one calendar year.~~

(2) A Retrieval Permittee shall contact the Responsible Vessel Permitholder associated with retrieved trap gear via text, email or certified letter within one week of the trap gear being retrieved. The text, email or certified letter shall include contact information for the Retrieval Permittee, the number of traps retrieved, the date the traps were retrieved, and that the traps were retrieved under this Section. Retrieval Permittee shall maintain record of the text or email, or a copy of the letter and the certified mail receipt for at least one calendar year.

(3) A Retrieval Permittee shall contact all Responsible Vessel Permitholders with outstanding Retriever Trap Fees via certified letter postmarked no later than October 6. The certified letter shall include contact information for the Retrieval Permittee, all traps whose Retriever Trap Fee is outstanding, the date the traps were retrieved, and that the traps were retrieved under this Section. Retrieval Permittee shall maintain record of the certified letter and the certified mail receipt for at least one calendar year.

~~(3)~~ (4) The title of retrieved trap gear shall be transferred to the Responsible Vessel Permitholder once the Retriever Trap Fee for that trap gear has been paid and the Responsible Vessel Permitholder takes physical possession of the trap gear. The Retrieval Permittee shall produce two copies of a receipt detailing the time, date, and the fee paid when the Responsible Vessel Permittee takes possession of the trap gear; the Retrieval Permittee and the Responsible Vessel Permittee shall each keep a copy of the receipt for at least one calendar year.

~~(4)~~ (5) Retrieval Permittee may freely dispose of retrieved trap gear only if the trap gear has not been picked up by the Responsible Vessel Permitholder or the Retriever Trap Fee owed has not been paid by the October 21 following the trap's retrieval. Retrieval Permittee must return associated buoy tags to the Department with the logbook documenting that trap's retrieval.

(i) Reimbursement. The Department shall reimburse a Retrieval Permittee \$125 for each trap that has been identified on a completed and submitted Retrieval Logbook as requiring Department Reimbursement.

(j) Notification and Deadline of Department Trap Fee and Non-Renewal of Dungeness crab vessel permit. A Trap Gear Retrieval Logbook shall identify the nonpayment of a Retriever Trap Fee by any Responsible Vessel Permitholder that would require the department to pursue a Lost or Abandoned Department Trap Fee on a per trap basis as specified in subsection 705(c) ("Department Trap Fee").

(1) All Responsible Vessel Permitholders shall pay the Department Trap Fee.

(2) By January 15 following the date of trap retrieval, any outstanding Department Trap Fee is considered late for a Responsible Vessel Permitholder and the department shall suspend the renewal and transferability of the associated Dungeness crab vessel permit. The suspension shall remain in effect until all outstanding Department Trap Fees have been paid by the Responsible Vessel Permitholder, consistent with Fish and Game Code Section 7852.2.

Note: Authority cited: Section 9002.5, Fish and Game Code

Reference: Sections 7852.2, 8276, 8276.5, 9002.5 and 9006, Fish and Game Code