

FINAL PROPOSED REGULATORY LANGUAGE

Section 106, Title 14, California Code of Regulations is amended to read as follows:

§ 106. Permits to Commercially Take Shark and Swordfish Using Drift Gill Nets.

(a) Permit Required.

(1) The owner or operator of a vessel using drift gill nets to take shark and swordfish pursuant to sections 8561-~~8570~~8569 of the Fish and Game Code shall have obtained a valid drift gill net shark and swordfish permit and shall be a permittee in possession of said permit when engaged in such activities.

(2) To Whom Issued. The department shall issue permits to the owner or operator of a currently registered vessel who has qualified for said permit pursuant to sections 8561-~~8570~~8569 of the Fish and Game Code. ~~The applicant, if the holder of an expired drift gill net shark and swordfish permit, shall have complied with subsection (d) dealing with records during the preceding year.~~

(b) Limitations of Permit. Except as provided in ~~section~~Section 8564 of the Fish and Game Code, no permit shall be valid for more than one vessel at one time.

(c) Cost of Permit. See ~~section~~Section 8567 of the Fish and Game Code.

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

~~(e)~~(d) Notification Procedure. The department shall notify permittees if the director, pursuant to ~~section~~Section 8577 of the Fish and Game Code, closes the drift gill net shark and swordfish fishery or any area where the fishery is conducted. The department shall notify a permittee if his permit is suspended pursuant to ~~section~~Section 8576 of Fish and Game Code. In either case, the department shall notify permittees by certified mail and by public announcement on VHF/Channel 16 between 0800 hours and 1000 hours during normal business days. Radio transmissions shall commence 48 hours prior to the effective date of a closure or permit suspension and shall continue for 24 hours after the effective date of such action. It shall be the responsibility of the permittee to daily monitor the named radio channel during the specified hours.

~~(f)~~(e) A permittee may have any person serve in his place on the permittee's vessel and engage in fishing under his drift gill net shark and swordfish permit for not more than 15 calendar days in any one year, except as otherwise provided in ~~sections~~subdivision (b) of Section 8563~~(b)~~ of the Fish and Game Code. A permittee shall notify the department's Los Alamitos office of such a substitution by certified letter ~~or telegram~~ to be received at the Los Alamitos office during normal business hours at least 24 hours prior to the commencement of the trip. Any notice sent in this regard shall include, but is not limited to:

- (1) Name of the vessel;
- (2) Name and commercial fishing license number of the substitute;
- (3) Departure date and port for the trip;
- (4) Termination date and port for the trip.

Conviction of a substitute permittee for a willful violation of any provision of Article 16 (commencing with ~~section~~Section 8560) of chapter 2 or article 1 (commencing with

~~section~~Section 8601), or article 5 (commencing with ~~section~~Section 8680) of chapter 3, part 3, division 6 of the Fish and Game Code or any regulation adopted pursuant thereto, while operating under the substitute permit, shall be cause to revoke or suspend the permit issued pursuant to sections 8560-8583 of the Fish and Game Code. ~~(g)~~(f) Conditions of Permit. ~~Permit holders~~Permittees, their agents, servants, employees or those acting under their direction or control, shall comply with all applicable provisions of the Fish and Game Code relating to commercial fish and any regulations adopted pursuant thereto.

~~(h)~~(g) Revocation of Permits. Any permit may be revoked or suspended by the commission, when requested by the department, upon a conviction for a willful violation of any provision of article 16 (commencing with ~~section~~Section 8560) of chapter 2 or article 1 (commencing with ~~section~~Section 8601) or article 5 (commencing with ~~section~~Section 8680) of chapter 3, part 3, division 6 of the Fish and Game Code, or violation of any condition of the permit by the permittee or the permittee's agent, servant, employee or person acting under the permittee's direction or control.

h) All permits issued pursuant to this Section shall be surrendered or revoked and this Section shall be repealed as of January 31 of the fourth year following the department's notification to the Legislature pursuant to paragraph (2) of subdivision (b) of Section 8583 of the Fish and Game Code.

Note: Authority cited: Sections 1050, 7857, 8394, 8561, 8577, and ~~8578, 8583~~, Fish and Game Code.

Reference: Sections 8394.5, ~~8561-8570~~8569, Fish and Game Code.

FINAL PROPOSED REGULATORY LANGUAGE

Section 106.5, Title 14, California Code of Regulations is added as follows:

§ 106.5. Drift Gill Net Shark and Swordfish Permit Transition Program.

(a) Drift gill net shark and swordfish permittees with valid permits issued pursuant to Section 106 of these regulations who choose to participate in the transition program shall submit a completed and notarized department form, Declaration of Intent to Participate in Drift Gill Net Transition Program (DFW 1083, NEW 08/31/19), herein incorporated by reference. All Declarations of Intent to Participate in Drift Gill Net Transition Program must be postmarked on or before January 1, 2020.

(b) When funds are available, the department shall notify in writing a permittee who submits form DFW 1083 in the order received whether the permittee meets the requirements of Section 8583 of the Fish and Game Code.

(c) Any permittee who meets the requirements of Section 8583 of the Fish and Game Code and voluntarily participates in the transition program shall indicate on form DFW 1083 agreement to:

(1) Upon notification of eligibility in the program pursuant to subsection (b) above, surrender their permit to the department by March 31, 2021.

(2) Upon notification of eligibility in the program pursuant to subsection (b) above, surrender all large mesh (greater than or equal to 14 inch) drift gill nets to an entity approved by the department for the purpose of destroying the nets as defined in subsection (f) of this Section, and provide the department valid receipt of net relinquishment, by March 31, 2021.

(3) Be prohibited from obtaining a new California drift gill net shark and swordfish permit.

(4) Upon receipt of payment, not fish under, transfer, or renew a federal drift gill net permit.

(d) A permittee who the department has determined meets the requirements of Section 8583 of the Fish and Game Code, who complies with subsection (c) of this Section by March 31, 2021, and who submits a completed state form STD 204, Payee Data Record (Rev. 5/2018, incorporated by reference herein) shall be compensated pursuant to subdivision (a) of Section 8583 of the Fish and Game Code.

(e) Any permittee who has completed the steps outlined in subsections (a) or (b) of this Section may withdraw their intent to participate in the Transition Program prior to receipt of compensation outlined in subsection (d) of this Section by submitting written notice postmarked on or before January 1, 2021 to the department's License and Revenue Branch.

(f) The department shall approve entities upon written request for the purpose of destroying large mesh drift gill nets pursuant to the transition program. Destroy means modification of the nets to the point they may no longer be used for the purpose of drift gill net fishing, and may include recycling net components for non-drift gill net purposes.

(1) Written requests shall be submitted to the department at CPSHMS@wildlife.ca.gov.

(2) Written requests shall document how the entity meets the following criteria:

(A) Be a legal entity, with experience in receiving and destroying commercial fishing gear.

(B) Be able to receive drift gill nets, including attached floats, buoys, and lead lines, from transition program participants, and able to properly deconstruct the nets to prepare all components for destruction.

(C) Be able to provide transition program participants with evidence of receipt of surrendered nets identifying the transition program participant and number of nets surrendered.

(D) Be able to provide a physical location or locations in the ports of San Diego, Los Angeles, Ventura, or Santa Barbara between January 1, 2020 and March 31, 2021 to receive drift gill nets from transition program participants.

(E) Be able to transport surrendered drift gill nets designated for destruction.

(F) Be able to trace surrendered drift gill nets from collection to destruction and provide the department with evidence of net destruction upon request.

Note: Authority cited: Section 8583, Fish and Game Code.

Reference: Sections 8573 and 8579, Fish and Game Code

FINAL PROPOSED REGULATORY LANGUAGE

Section 107, Title 14, California Code of Regulations is amended to read as follows:

§ 107. Broadbill Swordfish

(a) Permit Required.

(1) The owner or operator of a vessel taking broadbill swordfish for commercial purposes shall have obtained a valid swordfish permit and shall be in possession of said permit when engaged in such activities.

(2) To Whom Issued. The department shall issue a permit to the owner or operator of a currently registered vessel. ~~The applicant, if the holder of an expired swordfish permit, shall have complied with subsection 107(e) dealing with records during the preceding year, or during the last year such applicant held a permit, in order to be eligible for a permit.~~

(b) Vessel Identification. Permittees vessel shall display its assigned permit number in 10" high x 2"-wide black Roman alphabet letters and Arabic numerals. Figures shall be black on a white background on both sides of the superstructure of the vessel. Numbers shall be displayed at all times while operating under a swordfish permit.

(c) 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.

(d) Cost of Permit. See Section 8394.5 of the Fish and Game Code.

(e) Methods of Take.

(1) Swordfish may be taken only with hand-held hook and line, deep set buoy gear authorized under federal law, or handthrusted harpoon.

(2) Aircraft may be used to directly assist a permittee or any person in the taking of any species of fish while operating under a swordfish permit.

Only aircraft with current FAA registration which are registered with the department pursuant to Section 7892, Fish and Game Code, and aircraft pilots licensed pursuant to Section 7850, Fish and Game Code, may conduct flights for permittees. Such aircraft shall display the letters "SW" on the underside of each wing in block Roman alphabet at least 24 inches high x 3 inches wide, black in color and on a white background.

(f) Notification Procedure. The department shall notify permittees if the director, pursuant to Section 8577 of the Fish and Game Code, closes the swordfish harpoon fishery or any area where the fishery is conducted. The department shall notify permittees by mail and by public announcement on VHF/Channel 16 between 0800 hours and 1000 hours during normal business days. Radio transmissions shall commence 48 hours prior to the effective date of a closure and shall continue for 24 hours after the effective date of such action. It shall be the responsibility of the permittee to daily monitor the named radio channel during the specified hours.

(g) Revocation of Permits. Any permit may be revoked and canceled by the commission upon breach or violation of any fish and game law or regulation or violation of the terms or conditions of the permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

Note: Authority cited: Sections 1050, 7857, 7892, 8026 and 8394, Fish and Game Code. Reference: Sections 1050, 7857, 7892, 8026, 8394, 8394.5, ~~and 8577~~, and 9028, Fish and Game Code.