

COMMITTEE STAFF SUMMARY FOR NOVEMBER 15, 2016

4. COMMERCIAL NEARSHORE FISHING PERMITS**Today's Item**Information Direction

Receive presentation from DFW staff on the current commercial permit structure for nearshore and deeper nearshore fisheries.

Summary of Previous/Future Actions

- Public regulatory change request received Aug 6, 2014; San Diego
- FGC request referred to DFW for review and response Oct 8, 2014; Mt. Shasta
- **Today receive DFW recommendation Nov 15, 2016; Los Alamitos**

Background

California's nearshore fishery includes 19 species managed jointly through state and federal actions, and is governed in part through the FGC-adopted Nearshore Fishery Management Plan (adopted in Aug 2002). The commercial fishing permit program includes two separate permits: The nearshore fishery permit (NFP) for ten nearshore species, and the deeper nearshore species fishery permit (DNSFP) for eight deeper species. Permit transferability rules, originally intended to limit effort and capacity, are highly restricted, where NFPs may be transferred on a 2-for-1 basis, and DNSFPs are non-transferable. This permit structure has been identified by fishery participants across the state as an area of concern and a limiting factor to fleet viability.

In 2014, FGC responded to new petitions to amend the nearshore fishery permit regulations by formally referring the request to DFW for review and recommendation. Following a joint meeting among nearshore permittees, DFW staff and FGC staff in 2015, DFW sent a survey to all nearshore permit holders to solicit detailed perspective and feedback on the permit structure, its limitations, and potential solutions.

Today, DFW will provide the MRC with an overview of the results from that survey, options identified, and DFW recommendations for changes to streamline and improve the permit structure while still maintaining fishery stability and biological capacity goals (see exhibits 1 and 2). DFW will present the MRC with a suite of narrowly-focused options to:

- 1) Change the NFP transfer rule from 2-for-1 to 1-for-1;
- 2) Develop transfer rules for DNSFP; and
- 3) Increase the transfer fee for NFP and establish a similar fee for DNSFP transfers.

Current staff capacity at FGC and DFW, as well as necessary outreach, would restrict notice on any rulemaking for commercial nearshore fishing permits to no earlier than the latter half of 2017.

Significant Public Comments

Nearshore fishermen have expressed a desire for other types of changes to the nearshore fishery permit structure, such as allowing permit stacking, permit leasing and substitutes, and allowing certain species to be retained under either permit.

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Mr. Bill James, who holds a DNSFP, requested in Oct 2016 that FGC authorize a second person to fish his permit as part of accommodation for a physical disability.

Recommendation

FGC staff: Staff supports DFW's recommendation to move forward with preparing for a rulemaking narrowly focused on permit transferability, fees, and minor permit processing procedures. While other options may be warranted for future consideration, a narrow focus now will help address the biggest permitting obstacles for the near-term, as identified by the fishermen themselves, with available staff capacity. Staff also recommends that DFW return to MRC at the Mar 2017 meeting with a specific proposed transfer fee for each permit type.

DFW: Recommends advancing for proposed rulemaking: (1) Change shallow permit transfer to 1-for-1; (2) allow deeper permits to transfer 1-for-1; (3) change and implement a transfer fee (\$1000-\$2000) for each permit; and (4) minor changes to permit processing procedures.

Exhibits

1. [DFW memo, dated Nov 2, 2016](#)
2. [DFW presentation: Nearshore Fishery Permits](#)

Committee Direction/Recommendation

The Marine Resources Committee recommends that the Commission direct staff to begin preparing a notice of intent to amend regulations related to transferability of nearshore and deeper nearshore permits for the 2017 rulemaking calendar, and requests an update at the Mar 2017 marine resources committee meeting with a proposed permit transfer fee.

Memorandum

Date: November 2, 2016

To: Valerie Termini
Executive Director
Fish and Wildlife Commission

From: Craig Shuman, D. Env. 
Marine Regional Manager

Subject: Proposed Nearshore Fishery Permit Program Changes

California's nearshore fishery includes 19 species managed through a complex suite of state and federal regulations. Over the last several years, numerous individuals have requested the Commission consider changes to the state's nearshore fishery permit regulations to improve performance of the permit programs to accommodate their individual commercial fishing business needs. To better assess the specific interests and concerns of all current permit holders, the Department recently conducted a survey aimed to collect information on what regulation changes would improve performance of the permit programs.

In addition to the survey, the Department took inventory of its own experience administering the nearshore fishery permit programs over the past 17 years. This included an evaluation of changes in allowable harvest levels, nearshore fishery management strategies, and fishery performance as well as the need to minimize bycatch of nearshore fish stocks. This memo briefly describes two priority concerns identified with the current permitting program and the Department's recommendation to address these concerns.

Background

Pursuant to regulations adopted by the Commission, fishermen participating in the directed nearshore fishery must possess a Nearshore Fishery Permit (NFP) or a Deeper Nearshore Species Fishery Permit (DNSFP)¹. The NFP is for the take of 10 shallow nearshore species (cabezon, California scorpionfish, California sheephead, kelp and rock greenlings, and black-and-yellow, China, gopher, grass and kelp rockfishes). The DNSFP is for the take of eight deeper nearshore rockfish (black, blue, brown, calico, copper, olive, quillback and treefish). The nearshore fishery has an average annual ex-vessel value of \$2.5 million (2011- 2015)

¹ There are no permit requirements or gear restrictions for monkeyface prickleback, a Nearshore Fishery Management Plan species.

Nearshore Fishery Permits (NFP)

Consistent with the Nearshore Fishery Management Plan, the state is divided into four different regions – each with a specific NFP. Permittees may hold only one NFP applicable for a single region. Permit transfers are allowed on a 2-for-1 basis, meaning a new participant must purchase two permits for the same regional management area they want to fish in, agree to retire one permit, and fish off the other. The vast majority of permittee survey respondents reported significant difficulty acquiring two permits for sale in the same region. Also, 78 percent of the NFP permittees currently actively participate in the fishery. This high level of participation is likely a factor in why interested buyers reported difficulty finding two permits for sale in one region.

The number of NFPs issued in 2003 totaled 220 and has been reduced, through transfers or non-renewal, to 144 permits in 2016. Despite the reduction in the number of NFPs, each region remains above its capacity goal of 14, 9, 20 and 18 transferable NFPs for the North Coast, North-Central Coast, South-Central Coast and South Coast regions, respectively. However, many of the Total Allowable Catches that were initially used to develop these capacity goals have increased over time, resulting from new stock status information. Additionally, the commercial nearshore fishery has been successfully managed for many years under both state and federal management authorities. The Department collects and evaluates inseason catch information, which allows adjustment of bi-monthly trip limits to ensure that catches remain within established annual limits. Because of these factors, the Department is comfortable recommending changes to nearshore permit regulations that could result in modest increases in fishery participation, catch, or effort in the fishery, despite being above the capacity goal for each NFP region.

Deeper Nearshore Species Fishery Permits (DNSFP)

The DNSFP was adopted by the Commission to limit the amount of effort on deeper nearshore fish stocks that may have shifted from those who did not initially qualify for a NFP when it was enacted. The DNSFP has no gear limitations, nor regional boundaries. The DNSFP is non-transferable so there is currently no mechanism for entry for those wishing to enter the fishery. Consequently, the program does not allow new participants to enter this nearshore fishery, nor does it allow existing permittees who may wish to retire or leave the fishery to sell or pass the permit to a family member, working partner or other person. 96 percent of survey respondents support transferability of the DNSFP.

From a resource management and conservation standpoint, the Department notes the prohibition on DNSFP transfers and the constraints on NFP transfers can result in regulatory discards in the nearshore fishery, as the shallow and deeper species are sometimes caught together. Many fishermen have expressed interest in holding both permits to maximize their fishing productivity and to reduce the number of fish they are required to release, but due to regulatory constraints, they are not able to acquire both permits.

Department Recommendations

Based on the Department's evaluation of the existing regulations, and the input provided through the permittee survey and ongoing input to the Commission and Department under public forum and in other venues, the Department recommends the Marine Resources Committee and Commission consider the following changes to the nearshore fishery permit program:

- Change the NFP transfer rule to 1-for-1, from 2-for-1. While each region remains above its capacity goal, permit numbers have declined substantially from 2003 levels, and the management of the fishery has been successful using a suite of annual catch limits and inseason monitoring and management mechanisms. As a result, the Department is confident these mechanisms will be effective in addressing any increases in fishery catch, effort or participation that may result from increased permit transfer activity. Changing NFP transfers to 1-for-1 would require a regulatory change, but no changes to the Nearshore Fishery Management Plan or the Fish and Game Code are necessary.
- The Department recommends the Fish and Game Commission consider increasing the transfer fee to a level between \$1000 and \$2000, to more accurately reflect current administrative costs, and to partially cover costs associated with heightened scrutiny on inseason monitoring and trip limit management that is needed to keep the fishery within its annual limits. The current fee for a 2-for-1 NFP transfer is \$500. The transfer fee was established in 2003 and has not been adjusted since.
- Develop transfer rules for the DNSFP. The Department recommends making DNSFP transferable on a 1-for-1 basis. This would provide flexibility for current fishermen and allow new fishermen to enter the fishery. This change to the DNSFP would require a regulatory change, but no changes to the Nearshore Fishery Management Plan or Fish and Game Code are necessary.
- Should DNSFPs become transferable, the Department recommends the Fish and Game Commission consider a fee range between \$1000 and \$2000, consistent with the transfer fee proposed for the NFP described above.
- Other minor changes to administrative processes and paperwork required for issuance and renewals of nearshore permits, as recommended by the Department's License and Revenue Branch.

Conclusion

The recommended modifications to the nearshore permitting programs will address a number of long-standing operational concerns within this fishery. The proposed changes are overwhelmingly supported by fishery participants and interested parties, and are expected to streamline and improve the program's performance. These proposed changes may also facilitate reduction in bycatch and discards by those who currently cannot attain both permits. The proposed changes are relatively simple fixes

Valerie Termini, Executive Director
Fish and Game Commission
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that can be accomplished without a Nearshore Fishery Management Plan amendment. While additional changes could be made to further improve the nearshore fishery, both the problems and possible solutions are less clear, and involve more complex analyses that cannot readily be accomplished in the near-term.

Next Steps

The Department requests the Marine Resources Committee consider the Department's proposal and possibly recommend to the full Commission to direct the Department to prepare an Initial Statement of Reasons to include the Department's recommended changes described above. A proposed timeline and schedule would include a notice hearing in June, discussion hearing in August, and adoption hearing in October of 2017. These opportunities for public input are scheduled in locations that should be convenient for stakeholder input from all four nearshore regions of the state, allowing the Commission to hear from a wide array of interests and consider any regional concerns.

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Nearshore Fishery Permits



DFW file photos



Traci Larinto

Senior Environmental Specialist

Department of Fish and Wildlife, Marine Region

Marine Resources Committee Meeting

November 15, 2016



Overview

- * Describe the two nearshore permits
- * 2015 Nearshore Survey results
 - Shallow permit transfers
 - Deeper permit transfers
- * Nearshore Permit capacity and activity
- * Department recommendations
- * Next steps



Nearshore Fishery Permit aka Shallow Permit

- * Restricted access program
- * Regional permit
- * Hook-and-line, dip net and trap gear
- * Permit fee \$707.25

Transfer Requirements

- Two transferable NFPs for the same region
- Notarized letters from buyer and sellers
- Transfer fee \$500

Species

- * Cabezon
- * California scorpionfish
- * California sheephead
- * Kelp and rock greenlings
- * Rockfishes:
 - Black-and-yellow
 - China
 - Gopher
 - Grass
 - Kelp



North Coast Region

Cape Mendocino

**North-Central
Coast Region**

Point Año Nuevo

**South-Central
Coast Region**

Point Conception

South Coast Region

Nearshore FMP Regions



Deeper Nearshore Species Fishery Permit aka Deeper Permit

- * Permit moratorium
- * Statewide permit
- * No gear restrictions
- * Permit fee \$179.74

Transfer requirements

- Not transferable

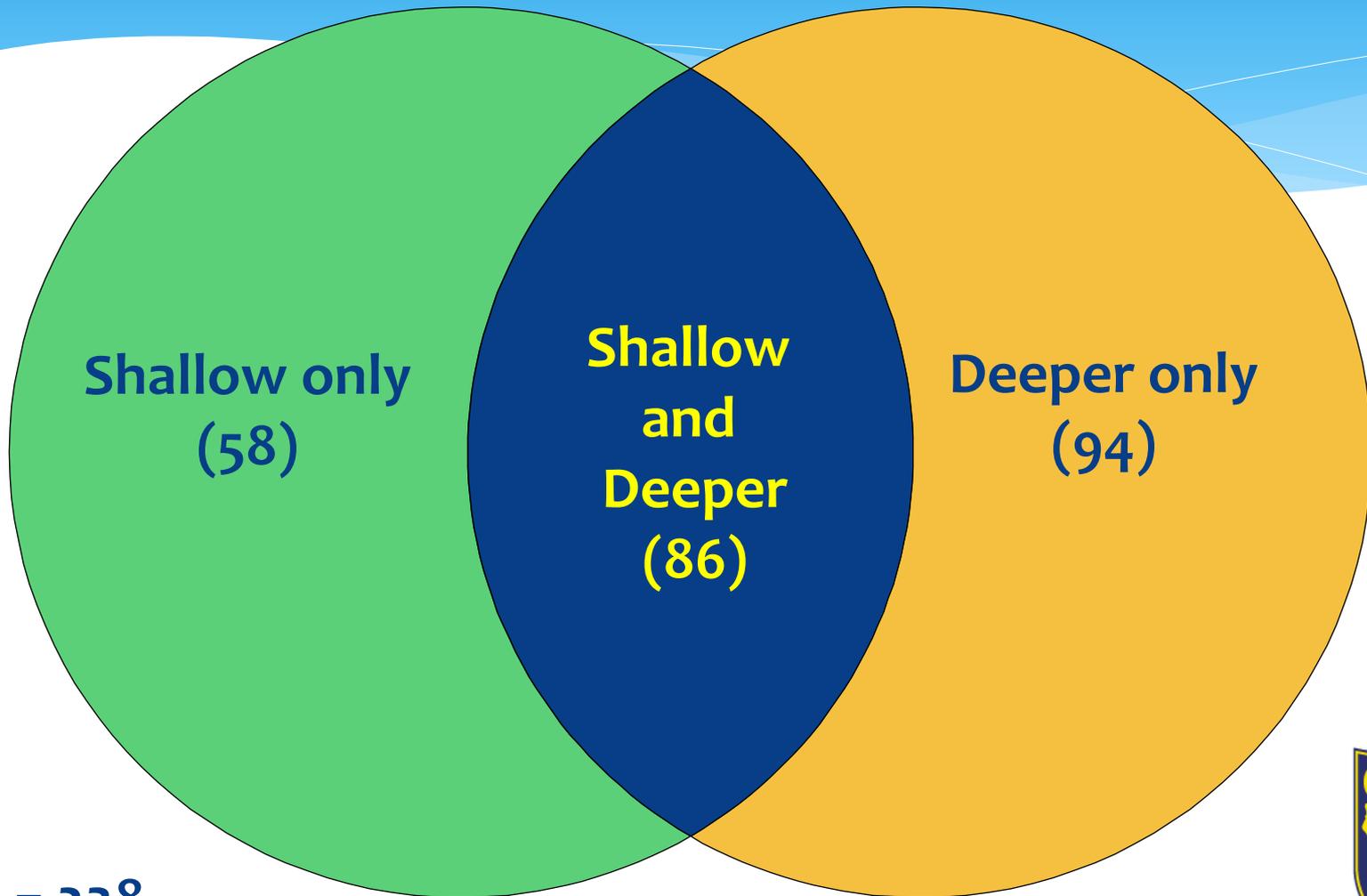
Species

* Rockfishes:

- Black
- Blue
- Brown
- Calico
- Copper
- Olive
- Quillback
- Treefish



2016 Nearshore Permits



Total = 238

2015 Nearshore Survey

- * Survey sent to 246 permittees
- * Questions included
 - Fishing practices
 - Purchasing shallow permits
 - Support or oppose
 - a) Deeper permit transfers
 - b) Combining shallow and deeper permits
- * 51 percent responded
- * Equal responses by permit type
- * More from the North & North-Central
- * Fewer from the South



Transferring into the shallow fishery

Very difficult - 12

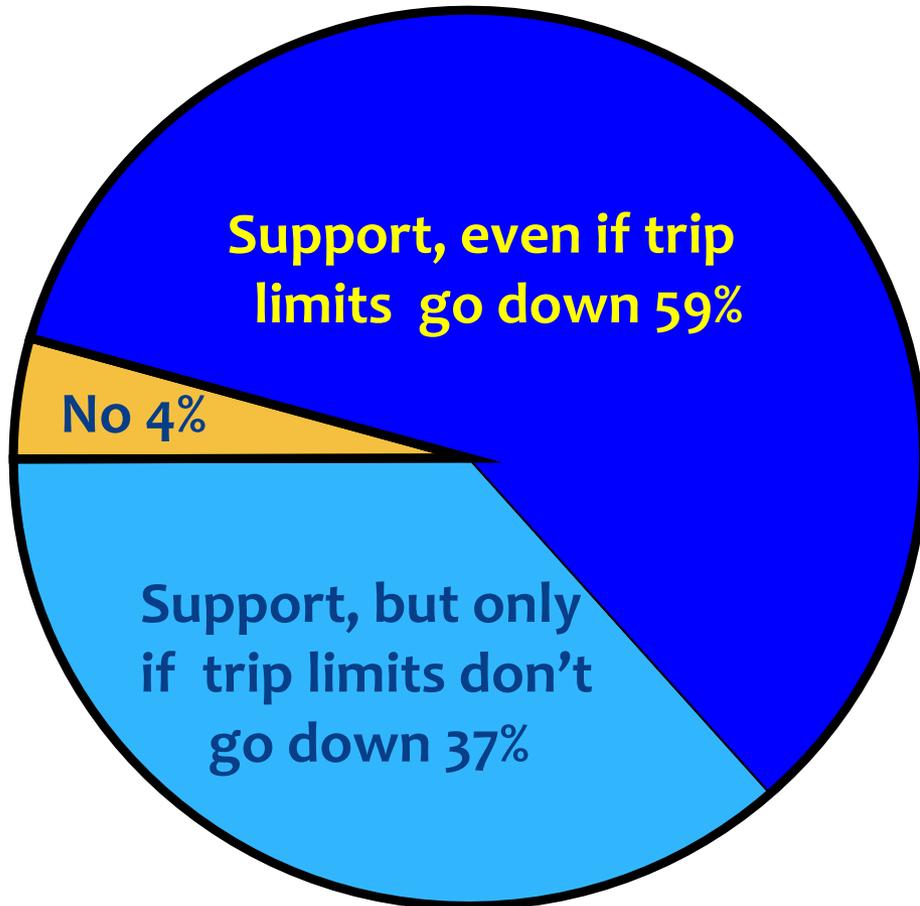
**Not difficult
- 2**

**Somewhat
Difficult - 3**

- * 18 respondents transferred in
- * 13 said it was cost effective
- * What would make it easier?
 - 1-for-1 transfer
 - Permit registry
 - Allow transfer from other regions



Allowing Deeper Permit transfers



- * 96% support deeper permit transfers
- * 70% did not support limiting number of transfers per year
- * 11 people did not answer the question

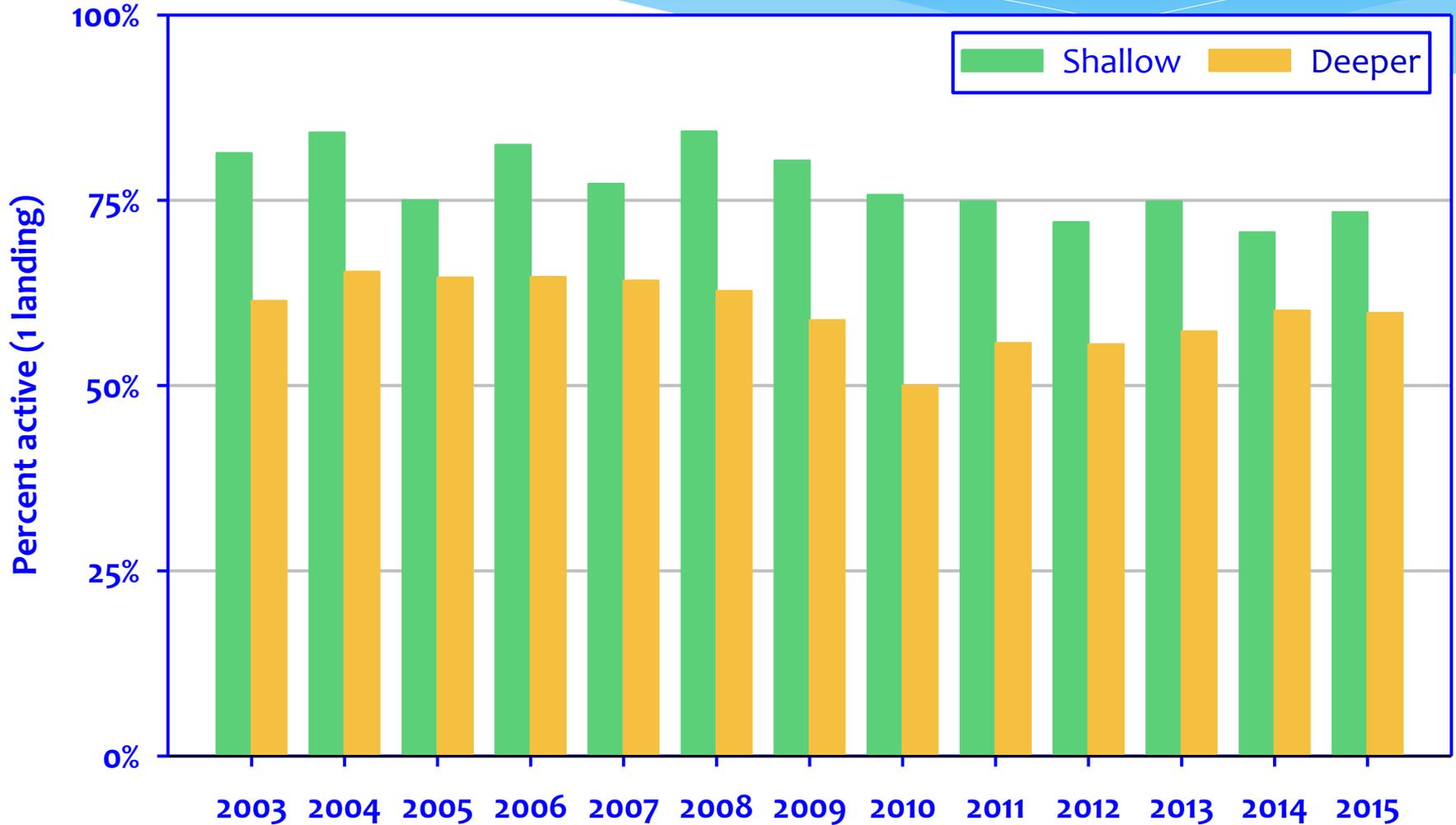


Nearshore Permit Capacity

	Capacity goal	2003	2016	Permit transfers	Permits not renewed	Total attrition
North Coast Region	14	30	16	3	11	47%
North-Central Coast Region	9	38	26	5	7	32%
South-Central Coast Region	20	75	51	17	7	32%
South Coast Region	18	77	51	15	11	34%
Total Shallow permits	61	220	144	40	36	35%
Deeper permits	n/a	281	180	-- ¹	101	36%

Notes: 1. Permit transfers are not allowed for DNSFPs.

Nearshore Permit Activity



Department Recommendations

- * **Change Shallow Permit transfers to 1-for-1**
- * **Allow Deeper Permits to transfer 1-for-1**
- * **Change/implement a transfer fee of (\$1000 - \$2000) for each permit**
- * **Minor changes to permit processing procedures**



Next Steps

What can the MRC do?

- * Request FGC to ask the Department to prepare rulemaking with:
 - 1-for-1 transfer shallow
 - 1-for 1 transfer deeper
 - Address transfer fees
- * Provide guidance on fees

Possible timeline

- * FGC Direction Dec or Feb
- * MRC March 2017-Oceanside
- * Notice June 2017-Crescent City
- * Discussion August 2017-Sacramento
- * Adoption October 2017-Morro Bay



Thank You

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