

**TITLE 14. Fish and Game Commission  
Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050 and 8282, Fish and Game Code and to implement, interpret or make specific sections 1050, 7852.2, 7857, 8033, 8043, 8047, 8250.5, 8281, 8282, 8284, 9000, 9001, 9001.7, 9002, 9005, 9006, 9011 of said Code, proposes to amend Section 125 and 125.1, Title 14, California Code of Regulations, relating to Commercial Rock Crab Permits.

**Informative Digest/Policy Statement Overview**

Under current regulations (Section 125, Title 14, CCR), 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. This has resulted in a permit moratorium that prohibits any new entrants into the fishery. The proposed regulation would allow new individuals to enter the fishery by obtaining a transferable permit from an existing permit holder. The proposed regulation would greatly increase the data available on the fishery by requiring rock crab landed to be separated out by species and for nearshore trap fishermen to land rock crab and record those landings on a landing receipt prior to using them as bait. Finally, the proposed regulations would add regulatory language specifically allowing a rock crab trap permit holder to remove the traps of another permit holder in the event of illness or injury to the traps' owner.

Option 1: The proposed regulations would allow all existing southern rock crab trap permits that have not been suspended or revoked to become transferable.

Option 2: The proposed regulations would issue transferable permits to existing southern rock crab trap permit holders that have not been suspended or revoked that have landed a minimum of [1 – 5,000] pounds of rock crab during any calendar year from 2005 through 2008 using trap gear, inclusive, as documented by Department landing receipts submitted in an individual's name and commercial fishing license identification number with trap gear identified.

To address the concerns surrounding the impact of providing permits to more active participants, the proposed regulations would limit the number of transfers processed by the department each license year (April 1 – March 31) to [0-10] individuals. This would retard the rate of new entrants into the fishery and permit the early detection of an increase in catch levels or a change in the distribution of effort among permittees. The annual limit on permit transfers would not apply in the event of death of the permit holder.

It is proposed that a transfer fee of [\$200 - \$2000] would be levied for the transfer of a southern rock crab trap permit.

Applications to transfer permits are proposed to be in the form of a notarized letter from the existing permit holder, or the estate of the permit holder in the event that the permit holder is deceased, identifying the transferee and shall include the original transferable southern rock crab trap permit, a copy of the transferee's commercial fishing license and the nonrefundable permit transfer fee. Applications are proposed to be submitted to the department's License and Revenue Branch, 1740 North Market Boulevard, Sacramento, CA 95834. It is proposed that applications will be processed in the order received. If on any given day the number of applications received is greater than the available number of transfers, the department shall conduct a manual drawing to determine which application(s) shall be processed. Applications that are not processed will be returned and may be resubmitted on or after the first day of the following permit year for consideration.

In the event of death of the southern rock crab trap permit holder, it is proposed that the estate of the permit holder may renew the permit if needed to keep it valid. It is also proposed that the estate of a deceased transferable permit holder may transfer the permit not later than 1 year from the date of death listed on the death certificate.

The proposed regulations would require rock crabs to be identified at the species level: red, brown or yellow on all landing receipts. The use of "unspecified rock crab" would be prohibited.

Under current regulations (Section 125.1(d), Title 14, CCR), rock crabs may be used as bait in finfish traps. However, there is no mechanism to track the amount of rock crab used as bait. The proposed regulation would require that all rock crabs are brought ashore, landed and recorded on a landing receipt before they can be used as bait in finfish traps. The total pounds of rock crab to be used as bait from each landing will be required to be recorded in the "Note Pad" field on the landing receipt. Rock crabs used as bait in finfish traps will be required to be accompanied by a landing receipt demonstrating that the crab to be used as bait has been landed prior to being used as bait. The fisherman would also be required to keep copies of landing receipts documenting the catch of rock crabs that are used as bait on the fishing vessel for a minimum of 30 days from the date of landing as listed on the landing receipt.

Minor edits are also provided to better align the reference of permit fees and applications under a centralized Title 14 section being proposed by the Department's License and Revenue Branch.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the La Grande Room, Beach Resort Monterey, 2600 Sand Dunes Dr., Monterey, California, on Thursday, April 8, 2010, at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS FURTHER GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Sierra Room, Lake Natoma Inn 702 Gold Lake Drive, Folsom, California, on June 24, 2010, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before June 14, 2010 at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). **Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on June 14, 2010. All oral comments must be received no later than June 24, 2010 at the hearing in Folsom, California. E-mail comments sent to any e-mail address other than [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov) does not guarantee the comments' inclusion in the rulemaking package.** If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Sherrie Fonbuena at the preceding address or phone number. **Mr. Craig Shuman, Marine Advisor, Fish and Game Commission, phone (310) 869-6574, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

### Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

### Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulations to allow transferable permits would allow new members to enter the fishery. This is needed to maintain a viable southern rock crab trap fishery in California, resulting in a positive economic impact for participants and businesses.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None

- (c) Cost Impacts on a Representative Private Person or Business:

The proposed regulation to allow transferable permits would allow new members to enter the fishery. This is needed to maintain a viable southern rock crab trap fishery in California, resulting in a positive economic impact for participants and businesses. Increased competition for the resource is possible but not likely since market demand primarily controls the amount of crab harvested.

The proposed regulations for species specific landing data and landing of rock

crab used as bait have the potential to moderately reduce the efficiency of rock crab and nearshore trap fishermen in the short-term. In addition, Rock crab that are to be used as bait will be required to be landed which will incur a landing tax of \$0.0019 per pound pursuant to FGC § 8041 and 8051. It is anticipated, however, that the participants in these fisheries will easily adapt to the proposed regulations with no significant economic impact.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None

- (f) Programs mandated on Local Agencies or School Districts:

None

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None

- (h) Effect on Housing Costs:

None

#### Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

#### Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective, and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

John Carlson, Jr.  
Executive Director

Dated: April 27, 2010