

CALIFORNIA SENATE BILL 1114 FOR DEEP SET BUOY GEAR

This report summarizes the contents of California Senate Bill 1114 introduced by Senator Benjamin Allen, District 26 (parts of Los Angeles and Los Angeles County). SB1114 was introduced on February 17, 2016. The bill is sponsored by the Turtle Island Restoration Network. A committee hearing on the bill in the Senate Committee on Natural Resources and Water is scheduled for April 12.

Summary of Sections of the California Fish and Game Code Relevant to Permitting

- Section 7850(a). A person must hold a commercial fishing license issued by the department to take fish for commercial purposes, and bring fish ashore in California for the purpose of selling them.
- Section 8394. “Swordfish shall not be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid swordfish permit.” Section 8394.5 establishes a permit fee of \$330, but this fee does not apply to the holder of a valid drift gill net shark and swordfish permit.
- Section 8681(a) “Gill nets or trammel nets shall not be used for commercial purposes except under a revocable, nontransferable permit issued by the department.”
- Section 8561(a). “Notwithstanding Section 8394, shark and swordfish shall not be taken for commercial purposes with drift gill nets except under a valid drift gill net shark and swordfish permit...”

Summary of California Senate Bill 1114

SB 1114 to accomplish the following:

- Prohibits transfers of drift gill net shark and swordfish permits and increases fees for these permits as of March 31, 2017.
- Revokes latent drift gill net shark and swordfish permits. Latent is defined.
- Directs the California Department of Fish and Wildlife (CDFW) to establish regulations for a deep set buoy gear fishery once the fishery is federally authorized. Regulations would include “measures and incentives” to address derelict gear.
- Establishes criteria for the initial issuance of permits for the deep set buoy gear fishery once the fishery is federally authorized.
 - Qualifications are based on past participation in swordfish fisheries.
 - After five years, the number of permits issued may be expanded based on demand and demonstration that the fishery poses a “negligible risk to protected marine wildlife.” Negligible risk is defined.
 - Permits would be transferable.
 - The CDFW would establish fees for permit issuance and transfer.
- Authorizes funds from the California Ocean Protection Trust Fund to pay for deep set buoy gear for 1) participants in a Federal exempted fishing permit for deep set buoy gear and 2) the first 10 persons to obtain a deep set buoy gear permit. Funds could also be used to support a “high and stable” price for swordfish landed with deep set buoy gear.

Detailed Summary of the Bill

Drift gill net shark and swordfish permit (DGN permit) transferability and fees (Section 8561.5)

- As of March 31, 2017, DGN permit transfers prohibited except to “an entity engaged in retiring permits” or by exchanging the permit for a deep set buoy gear (DSBG) permit per Section 8584.2 (see below).
- As of March 31, 2017, the fee for a DGN permit increases from \$300 to \$1,500 “but the department may increase the amount of the fee to fully recover costs...”

Latent drift gill net permits

- A latent DGN permit is one that is not an “actively fished permit.” By inference, a permit is latent if swordfish or thresher shark have not been landed under it in at least three years between 2010 and 2015 inclusive. (Sections 8584(a) and (c)).
- The department shall revoke all latent permits. (Section 8570)
- The department shall not reissue permits for those exchanged, revoked, or surrendered. (Section 8570)

Deep set buoy gear fishery (Section 8584)

- The department may adopt regulations establishing a DSBG fishery, consistent with Federal law.
- Once a Federal fishery is authorized, DSBG permits are issued as follows (Section 8584.2):
 - One permit for each actively fished DGN permit surrendered.
 - One permit for a person who fished under a Federal DSBG exempted fishing permit (EFP) since January 1, 2010.
 - One permit for a person holding a swordfish permit (Section 8394) who landed swordfish under that permit in at least two years between 2010 and 2015 inclusive.
 - Two additional permits for a person holding an actively fished DGN permit, held a DGN permit and fished under the EFP, and surrenders the DGN permit within two years of Federal authorization of the fishery.
 - One additional permit for a person holding an actively fished DGN permit, held a DGN permit and fished under the EFP, and surrenders the DGN permit within four years of Federal authorization of the fishery (see footnote).
 - One permit for a person who held a latent DGN permit prior to January 1, 2017.
- The department shall not issue permits additional to those under Section 8584.2 until five years after the Federal fishery is authorized.
- The department shall determine the maximum number of permits based on demand and a finding of “negligible risk to protected marine wildlife.” Negligible risk is defined as “no more than a 20 percent probability ... of exceeding take levels established by relevant state and federal standards...” The lower of the zero rate mortality goal (ZRMG) under the Marine mammal Protection Act or the incidental take limit under the Endangered Species Act is specifically referenced as a standard.
- “Deep set buoy gear shall not be used to take swordfish for commercial purposes, except under a revocable permit issued by the department pursuant to this article.”
- The department shall establish measures and incentives to prevent, reduce, and eliminate derelict DSBG. These may include tags, registration, and labeling.

- The department shall establish a permit issuance fee and a permit transfer fee.
- Permits are transferrable subject to requirements in Section 7850 and any other requirements established by the department.

Funding for “innovation and adoption of sustainable fishing methods for swordfish” (Section 35650 of the Public Resources Code)

- Funds from the California Ocean Protection Trust Fund may be used to provide deep set buoy gear to:
 - A person who holds a DSBG EFP as of January 1, 2016.
 - The first 10 persons who exchange their permits pursuant to Section 8584.2
- Funds may be used to develop marketing and business structures to support a high and stable price for swordfish landed with DSBG.

PFMC
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