

STAFF SUMMARY FOR DECEMBER 6-7, 2017

23. COMMERCIAL SEA URCHIN**Today's Item****Information** ☐**Action** ☒

Adopt proposed changes to commercial sea urchin regulations.

Summary of Previous/Future Actions

- | | |
|-----------------------------------|---------------------------------|
| • Notice hearing | Aug 16, 2017; Sacramento |
| • Discussion hearing | Oct 11-12, 2017; Atascadero |
| • Today's adoption hearing | Dec 6-7, 2017; San Diego |

Background

Currently, subsection 120.7(d) sets the total number of sea urchin diving permits at 300. Subsection 120.7(e) further prescribes a random drawing system for distributing new permits as they become available. Under the current system, applicants who have held a sea urchin crewmember permit for more than two years have their name entered into the random drawing one additional time for each additional year they have held such permit; however, this advantage is very small in practice due to a maximum cap of five times that a name may be entered into a drawing. Currently Section 705(c)(4) requires no fee for the random drawing application.

Summary of Proposed Amendments

The proposed amendments to subsection 120.7(d) would decrease the sea urchin fishery's capacity goal to 150 permittees. The capacity goal will be achieved by issuing one new permit only after 11 permits have been retired; this ratio was chosen to simplify the calculation in which new permits would be issued, taking in account the new permit that is added to the fishery.

The lottery system proposed in subsections 120.7(e) and (f) would ensure that the most experienced applicants - have a realistic advantage over less-experienced applicants. Under the new system, 80 percent of the new permits would be given to applicants with the most experience in the fishery as crewmembers. The remaining 20 percent of the new permits would be distributed under a draw system where every remaining applicant has an equal chance of being selected to receive a new permit.

Other amendments to Section 120.7 include:

- Add one extra fishing day per week in the months of Jun to Oct in southern California.
- Clarify the requirements for authorization of an assistant for a sea urchin diver permittee.
- Remove language that no longer has any effect and clarify other regulatory text.

The proposed amendment to Section 705(c)(4) would remove reference to the current drawing application form and add a minor administrative fee of \$4.38 for future applicants to enter the drawing.

STAFF SUMMARY FOR DECEMBER 6-7, 2017

A draft notice of exemption is also attached (Exhibit 4), which gives FGC notice of DFW's recommendation to rely on a California Environmental Quality Act categorical exemption for this regulation change.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Adopt the proposed regulations as recommended by DFW.

Exhibits

1. [DFW memo, received Jul 25, 2017](#)
2. [Initial statement of reasons](#)
3. [DFW memo, received Sep 28, 2017](#)
4. [Draft notice of exemption](#)
5. [DFW presentation](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission determines, based on the record, this project is exempt from the California Environmental Quality Act pursuant to the guidelines in Title 14, subdivision 15061(b)(3) and Section 15307, and adopts proposed changes to sections 120.7 and 705.

State of California
Department of Fish and Wildlife

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COMMISSION

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M e m o r a n d u m

Date: July 26, 2017

To: Valerie Termini, Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Submission of Initial Statement of Reasons Amend Sections 120.7 and 705, Title 14, California Code of Regulations, Re: Commercial Taking of Sea Urchin**

The Department of Fish and Wildlife (Department) requests the Fish and Game Commission authorize publishing notice of its intent to amend Section 120.7 of Title 14, California Code of Regulations concerning commercial take of sea urchins; and, to amend subsection 705(c)(4), Commercial Fishing Applications, Permits, Tags and Fees: Sea Urchin Diving Permit Drawing Application and Fee, adding a minor administrative fee of \$4.38 for future applications for entering the drawing. Authorization of this request to publish notice will allow for discussion and possible adoption at the October 12 and December 7, 2017 Commission meetings, respectively.

Nearly half of the limited-entry sea urchin permit holders have remained inactive in the last decade. This high level of latent capacity raises both management and economic concerns. As a result, the California Sea Urchin Commission (CSUC) has been contemplating reducing capacity in the fishery for a number of years.

In the spring of 2017, the Department began providing support for the CSUC to help develop and finalize the proposed capacity reduction from 300 to 150 permits. In addition, the proposed changes include allowing the commercial take of urchins on Fridays south of Point Conception from June through October and several amendments to improve the structure of Section 120.7. The proposed take of urchin on Fridays, which is supported by CSUC, is in response to evolving market dynamics where having sufficient fresh supply of urchin on Saturdays has become increasingly important for the U.S. domestic market.

If you have any questions regarding this item, please contact Dr. Craig Shuman, Regional Manager, Marine Region, at (805) 568-1246. The public notice for this rulemaking should identify Anthony Shiao as the lead contact at (805) 568-1221, or Anthony.Shiao@wildlife.ca.gov.

Attachments

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Valerie Termini, Executive Director
Fish and Game Commission
July 26, 2017
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STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Sections 120.7 and 705
Title 14, California Code of Regulations
Re: Taking of Sea Urchin for Commercial Purposes, and
Commercial Fishing Applications, Permits, Tags and Fees

I. Date of Initial Statement of Reasons (ISOR): July 11, 2017

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: August 16, 2017
 Location: Sacramento

(b) Discussion Hearing: Date: October 12, 2017
 Location: Atascadero

(c) Adoption Hearing: Date: December 7, 2017
 Location: San Diego

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis
for Determining that Regulation Change is Reasonably Necessary:

Section 9054 of the Fish and Game Code authorizes the Fish and Game Commission (Commission) to set the conditions for issuing commercial sea urchin diving permits to prevent overutilization of the sea urchin resource and to ensure that the fishery is efficient and economic on both a state-wide basis and in specific geographic areas. Data collected by the Department of Fish and Wildlife (Department) from fishing reports submitted by sea urchin divers indicates that the potential for overharvesting is a major issue in the fishery. It is necessary that the Commission consider a reduction in the number of divers permitted to take sea urchin in order to ensure a stable population and harvest in future years.

(1) Delete the Submission Requirement for 2008 in subsection (c)(2)

The provision in subsection (c)(2) specifies that for 2008 (only) applications for renewal of sea urchin diving permits shall be received by the Department or, if mailed, postmarked no later than June 30. After 2009, this was no longer in effect and is therefore deleted.

(2) Diver Capacity Reduction, Amend subsection (d)

Present Regulations

The Commission regulation in subsection (d) currently limits the number of annual sea urchin diving permits to 300. All qualified prior sea urchin diving permittees shall be eligible to receive diving permits regardless of the number issued. Any permit that is not renewed is retired. If the total number of renewed permits is less than 300, new permits will be issued to applicants up until the 300-permit cap is filled. Individuals can apply for a sea urchin diving permit only if they have held a valid sea urchin crewmember permit in the two preceding years.

Proposed Regulations

The proposed change to subsection (d) would reduce the capacity level of sea urchin diving permits from the current level of 300 to 150 gradually over a period of several years. The proposed change in subsection (d)(3) specifies that while the number of diving permits issued to prior permittees is greater than 150, only one new sea urchin diving permit shall be available for every 11 permits that are retired pursuant to Fish and Game Code subsection 7852.2(c). Thereafter, the permits will be replaced 1:1 but never over 150 total.

Rationale

Both the sea urchin industry and the Department have been considering revisiting the current capacity goal of the fishery for many years. The fishery has high latent harvest potential from non-active sea urchin permit holders, which has been more evident during recent decades. In addition, the resource has been subject to an increasing effort compression because harvest areas are more limited due to marine protected areas (MPA) and environmental conditions have been persistently poor in recent years. Recent landings in both the northern and southern regions of the fishery are dramatically lower from yearly averages. Commercial divers have been expressing to the Department for many years that quality sea urchin are increasingly more difficult to find, which is further supported by a lower catch per unit effort in the landings data.

The potential for overharvesting due to latent effort is a major issue in the sea urchin fishery. During the years of 2007-2016, when the number of sea urchin permits was near 300 permits, 97-100 percent of the landings were made by 150 divers (Figure 1). During that same period, 92-98 percent of the landings were made by 125 divers and 84-93 percent of the landings were made by only 100 divers. A significant portion of the fishery has not been contributing to the total landings, and this latent capacity should be reduced to protect the industry and resource in the event of sudden shocks, such as a spike in market demand and an associated increase in fishing effort.

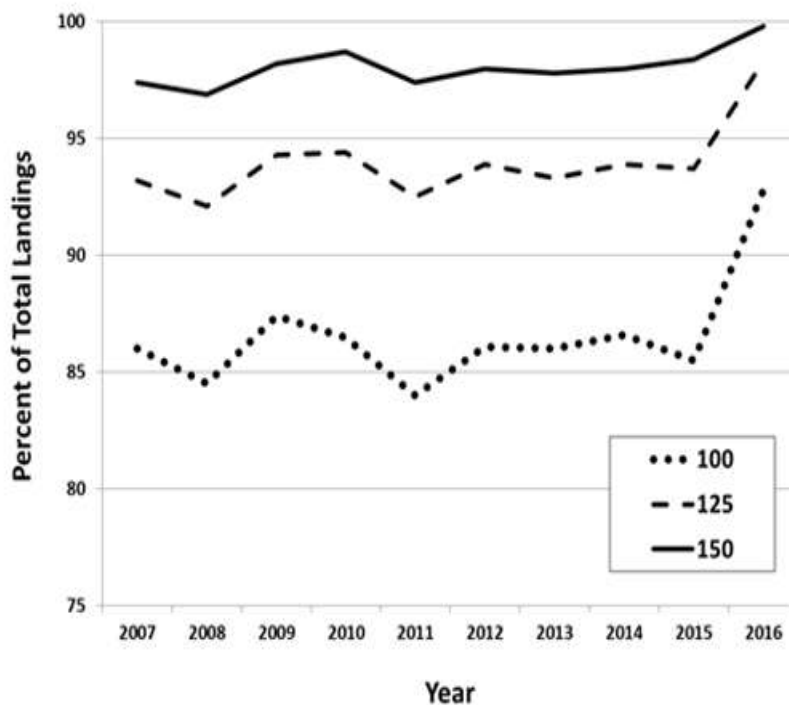


Figure 1. The percent of total landings taken by three levels of sea urchin divers (100, 125, and 150) from 2007-2016, a period when the number of permits was near or at 300 sea urchin permits.

The impact of divers is also concerning to the fishery. Divers are finding it more difficult to sustainably harvest sea urchins due to increased concentration of divers in smaller harvest zones. This in part can be attributed to the establishment of statewide MPAs, most of which were created after 1994 when the sea urchin industry instituted the 300-permit capacity goal. The MPAs have excluded divers from historically prime sea urchin grounds in terms of poundage and quality. Three reports written for the California Marine Life Protection Act Initiative (Ecotrust 2008, 2010, and 2011) estimates that MPA reduction of total commercial sea urchin fishing grounds by percent of area, by port, to be the following: South Coast, 2.0-19.3 percent for six ports; North Central Coast, 8.4-29.9 percent for four ports; and North Coast 8.2 percent for two ports. Recent military closures at San Clemente and San Nicolas islands further compressed the fishing ground by acting as reserves much of the year. As a result, the production and roe quality from many reefs have dropped substantially from the excessive harvest pressure.

Changing environmental conditions have significantly reduced the statewide abundance of bull kelp (*Nereocystis luetkeana*) and giant kelp (*Macrocystis pyrifera*), the main food sources for red sea urchin. The sea urchin fishery is based on quality of the product where only animals with gonads, known as “uni”, of specific size and taste are marketable, and this quality is directly correlated to food availability. Increased water temperature caused by the 2016 El Niño and

warm water 'blob' has reduced the bull kelp beds in northern California by 93 percent from previous years and greatly reduced the giant kelp beds in southern California. Without enough food and desirable habitat, many red sea urchins have become unmarketable.

The purple sea urchin explosion in northern California has further stressed the red sea urchin fishery. This event, in conjunction with the other factors mentioned has been described by the Department as the "Perfect Storm" in the March 2016 issue of *CDFW Marine Management News*. The explosion of purple sea urchin, a smaller and much less desirable sea urchin, is out-competing red sea urchin for food and suitable habitat typically used for red sea urchin larval settlement. As a consequence, the number of red sea urchin with quality roe in traditionally fished depths has greatly decreased, forcing divers to harvest in deeper waters to find harvestable red sea urchin, further stressing the resource, diminishing productivity, and creating more diver related safety concerns.

Another concern that has yet to manifest itself is the potential range expansion of the sea otter south of Point Conception and north of Monterey Bay. Divers are concerned that a range expansion to the north or south would have a high impact on the fishery, which has been observed at San Nicolas Island where divers believe the densities of commercially valuable invertebrate species has already seen a decline.

The statewide red sea urchin landings in 2016 dropped to a new low of 5.3 million pounds, something not seen since the 1970s when the fishery was in its beginnings. Northern California only accounted for 548,000 pounds in 2016, which is only 20 percent of the ten-year average of 2.7 million pounds. Southern California landings were only 56 percent of the ten-year average of about 8.4 million pounds. At the same time, the weight in pounds of sea urchin landed per fish receipt, used as a proxy of catch per unit effort (CPUE) also appears to be declining (Figure 2). While the proxy may not be a perfect representation due to potentially confounding factors (e.g. divers picking for quantity vs. quality, and efficiency of individual divers), the downward trend arguably warrants further attention.

Reducing the number of sea urchin diving permits by 50 percent should improve the chances of maintaining a sustainable fishery in the event of an unforeseen increase in market demand or other economic shocks that would cause the latent divers to re-enter the fishery. However, permit reduction to 150 does not guarantee the resource will not be overfished. A 2015 Department examination of the total revenue in relation to the number of permittees from a period of stability (2009-2013) shows that the per-diver marginal revenue is at its highest when only the 99 most productive fishermen are accounted for (Figure 3). This conclusion is based on various assumptions that may require further refinement, but it does suggest potential economic benefit for a lower capacity goal. The industry presently believes that a capacity goal of 150 permits is a reasonable compromise between the optimal theoretical goal of 99 permits and

the current capacity goal of 300 permits. Over time, a responsible capacity should align the number of divers with the size of the harvesting grounds and ensure a sustainable fishery in the years ahead.

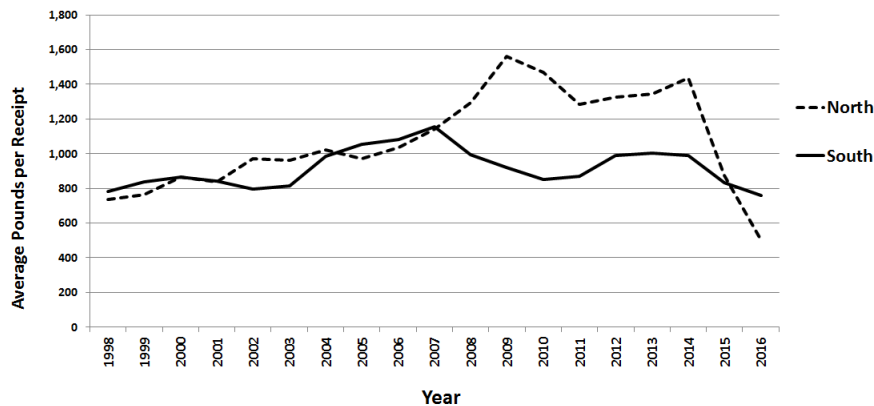


Figure 2. Catch per unit effort (pounds landed per landing receipt) for northern and southern areas of the California sea urchin fishery since 1998.

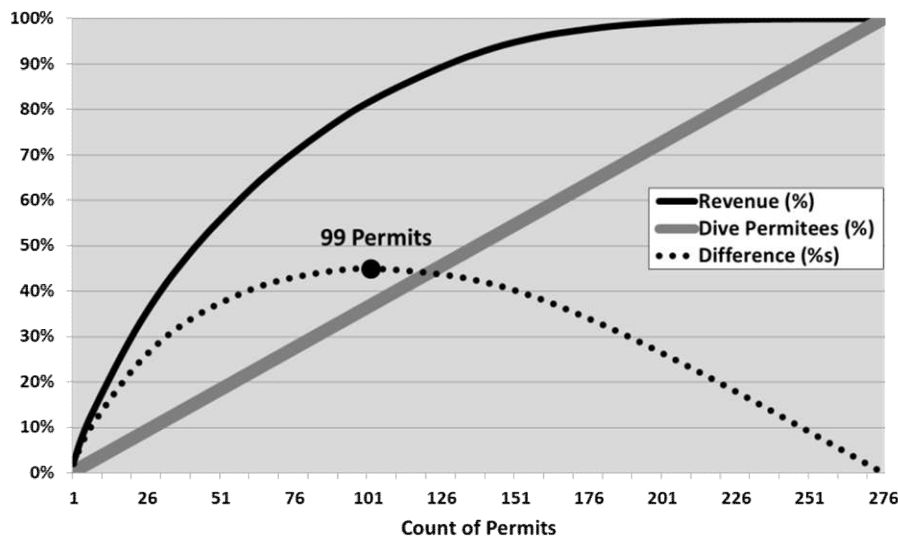


Figure 3. Optimal number of sea urchin divers based on ex-vessel revenues (paid to the diver) from 2009-2013 landings, a period of stability in the fishery. This approach selects the number of divers at peak economic efficiency, 99 permits, representing the optimal point. After that, there is a less than 1 percent increase for each added permit. The law of diminishing returns, after the 99 point, while holding all others constant, will yield diminishing returns.

The California Sea Urchin Commission (CSUC) has taken the initiative to conduct self-funded and fisherman-based studies of the sea urchin resource.

The CSUC has been collecting data by underwriting an independent study by the University of California Santa Barbara to analyze recruitment of red and purple urchins since 1991, which has been an effective and useful method for monitoring sea urchin recruitment. Some divers on their own initiative collect abundance data prior to harvest so they can measure resource trends. The 150 permit capacity goal is arguably the most cost-effective and feasible alternative to maintain a sustainable fishery. This option would ultimately better align with the available management funding than other alternatives (e.g. Total Allowable Catch, additional seasonal closures), which require more funding to implement.

At the October 8, 2014, Commission meeting in Mt. Shasta, testimony was given by a processor representing six other processors opposing the need to reduce capacity. In support of their position, the processors relied on a 2010 Maximum Sustainable Yield (MSY) study conducted by the Department, which indicated that the harvest level in southern California was lower than the MSY at that time. The processors argued that a capacity reduction was unwarranted since the fishery was not able to meet the stock's MSY even with 300 active permittees.

However, it is important to note that the 2010 Department study was made before additional MPAs were established in 2012. In addition, the model used for the analysis (McCall 2009) may not be suitable to inform current management needs in that it does not consider the impact of environmental conditions on gonad quality and the divers' decisions to harvest urchins. Given the declining status of the fishery at its current state, this MSY analysis is most likely not appropriate for the current status of the fishery.

The Department subsequently requested that the CSUC invite the processors to a special meeting to discuss their differences and seek a compromise. On November 21, 2014 the CSUC Board of Directors and seven of the largest sea urchin processors representing 95 percent of the urchins marketed in California met to discuss their differences. At that meeting, a capacity goal of 225 sea urchin divers was offered as a compromise to the processors; however, no follow-through materialized. Since then, a few processors have expressed support for the currently proposed 150 permit capacity goal. On July 13, 2015, the CSUC sent a letter to the Commission requesting to re-initiate a regulatory change despite not having the full support of the processing sector for the proposed revised capacity level.

Most sea urchin divers support achieving capacity reduction in the fishery. In 2012, the CSUC conducted a referendum of all current sea urchin diving permit holders. In total, 142 sea urchin divers representing a wide range of experience, age, and geographic areas participated in the survey. These divers overwhelmingly supported the proposed capacity reduction (81 percent in favor) and reducing capacity by a 10:1 drawing system (79 percent in favor). Ultimately, the industry wishes to continue to be proactive, as it has for the past

decade and a half, by contending that a capacity reduction is the most cost-effective way to ensure sustainability and viability.

(3) **Modified-Preference Point Drawing System, subsections (d) – (f)**

Present Regulations.

As currently set forth in subsections (d) and (e), the drawing system is based on opportunity with a baseline of 300 permits. The current drawing system gives minimal preference to applicants that have been attempting to obtain a sea urchin permit for many years. Although repeat applicants have more drawing chances, they still have to compete with many more applicants with fewer drawing chances. The CSUC desires a system in which applicants with multiple attempts in the drawing have a higher chance of entering the fishery as a sea urchin diver.

Proposed Regulations

The proposed change in subsection (d) would reduce the permit capacity from 300 to 150 over a period of years. In order to assure some opportunity for new divers to obtain permits, the Department proposes to amend the present drawing application in subsection (e) and add new drawing procedures in (f).

The proposed changes under subsection (e) would specify the application process for participating in the annual drawing. The process is fully automated and fairly distributes available permits to successful applicants. Although the application is limited to one application per qualified individual, the automated process adds in the preference points that have accumulated for each applicant based on their years of participation in the drawing.

The proposed addition of a new subsection (f) specifies the drawing process, assigns the proper number of chances, and randomly selects the successful applicant(s). The new system replaces the current drawing system for retired permits with a new Modified-Preference Point drawing system where the number of available permits would be offered on a 4 to 1 basis. The first four permits would be offered to a *Preference Group* and the next one permit would be offered to the *Random Group*. This method would carry over to subsequent years and would continue even when the capacity goal is met. Only one new permit will be made available for every eleven permits that are retired. This will continue until the lower capacity goal of 150 is reached. This method is further demonstrated in Table 1 and shows the milestones in which new permits would be issued based on the permit count after the March 31 renewal deadline.

The distribution of permits to both groups is further described in Table 1.

Table 1. This table explains in simple terms when a new sea urchin permit would be issued and to which group (Preference or Random).

Red Sea Urchin Fishery Modified-Preference Point Drawing System															
Permit Count	289	279	269	259	249	239	229	219	209	199	189	179	169	159	149 or less
Preference Group	1	1	1	1	-	1	1	1	1	-	1	1	1	1	One new permit issued when one retired
Random Group	-	-	-	-	1	-	-	-	-	1	-	-	-	-	
New permits issued to <i>Preference</i> or <i>Random</i> groups when the permit count at March 31 renewal deadline is at or below the listed permit count. This group ratio of four Preference Group to one Random Group continues even when the permit count is 149 or less.															

Each applicant would first be assigned a computer-generated random number then sorted from highest to lowest by the total preference points. One preference point would be awarded for each year they have applied for an urchin diving permit since 2006. The first four available permits, regardless of which year they become available, would be offered to the applicants with the highest number of preference points. The assigned random number would break any tie in preference points if there are fewer permits available than applicants. Any rewarded permit not purchased by the successful applicant would be offered to the next highest applicant in the preference point list. After the first four permits are awarded, the next available permit would be offered to the applicant with the lowest random number. Random numbers would be re-assigned for each year there is a drawing to adjust for added and removed applicants.

Rationale

As of 2016, there are eight applicants that fall under the group with the highest preference points. These eight applicants would be awarded 8 of the 10 first available permits, or earlier if they are chosen within the random draw. Since all applicants are pooled into the Random Group, there would be two independent opportunities for an applicant with a high preference point to obtain a permit. This system still gives applicants with fewer preference points a chance to obtain a sea urchin permit. Only 14 new sea urchin permits will be issued until the new capacity goal of 150 permits is reached. Of these, only two permits will be awarded to the Random Group and 12 would be awarded to the Preference Group. 2006 was chosen as the beginning of the reference period because it accounts for the more recent pool of applicants and the period encompasses a timeframe in which capacity was near 300 sea urchin divers.

The 11:1 ratio for capacity reduction allows a chance of entry for new divers into the fishery while meaningfully decreasing the permit count. This ratio of 11:1 was chosen instead of 10:1 to compensate for the one new permit that is added to the fishery during the reduction process. The newly issued permit would still be used in the total permit count calculation to determine when to give out a new permit, thus simplifying the process.

(4) Amend Subsection 120.7(l), Fishing Season, Add Fishing Days in Southern California

Present Regulations.

Current regulations in subsection (l) allow sea urchins to be harvested seven days a week from November through May and Monday through Thursday from June through October.

Proposed Regulation

The proposed amendment to subsection (l), renumbered to (n), would allow the harvest of sea urchin on any weekday (Monday-Friday) from June-October in southern California south of the Monterey-San Luis Obispo county line. This will add 21 additional days of fishing during the summer season. The CSUC is not proposing to add fishing days north of the Monterey-San Luis Obispo county line because it is not supported by the CSUC and the north coast divers.

Rationale

The current closures for the sea urchin fishery were instituted in 1993 to curb resource depletion and did not account for evolving market dynamics. Long-term market trend of sea urchin roe has since evolved from large-scale international exports to one encompassing significant domestic consumption. A reliable supply of a quality product at a fair price is now essential to maintaining and expanding the market share of California's urchin gonads. The current June-October harvest schedule of Monday through Thursday is resulting in delayed market replenishment at the beginning of each week. Sea urchins held over for shipments from the previous Thursday also lose some of their freshness and thus quality.

In addition, an increasing number of fishermen are selling sea urchins directly to the end users at local ports. These markets tend to be open during weekends, and are more amenable to products obtained the day before as opposed to ones that have sat in storage for over a day.

The extended weeks are not expected to increase fishing pressure on the red sea urchin resource in total. Most urchin divers do not currently dive for more than 75 percent of his/her available dive days during the restricted season. Making Fridays available to commercial divers would allow them to further exploit the high-end niche market catered to specific restaurants and end consumers. Divers are expected to divert more time and effort into marketing their catch, preserving the products, and interacting with end users. The extended fishing week is also expected to benefit fishermen by giving them more flexibility in selecting dive days with safer water conditions.

The changes in the market require a smaller but steadier supply of urchin roe. The domestic market for California red sea urchin has grown dramatically during the last decade and is continuing to expand, helping to offset the economic damage the fishery suffered with the loss of a substantial portion of its sales to the Japanese market. The U.S. market experiences its highest product demand during the summer months into early fall. By adding one day a week to the current harvesting schedule (June through October), the fishery will be on a more equal footing with the rest of the world. The additional day would also bring an added benefit of giving divers more flexibility to manage their dive schedules.

The reason for renumbering (l) to (n) is to maintain the logbook requirement as set forth in subsection 120.7(m). The Department is currently updating its regulation for the commercial sea cucumber dive fishery, and the pending regulation would cross-reference subsection 120.7(m) for the purpose of establishing its own logbook requirement. Renumbering subsection 120.7(l) would ensure that the logbook requirement remains as subsection 120.7(m) and minimize potential confusion and complication.

(5) **Amend Subsection (m), Sea Urchin Diving Logbook**

Proposed Change

The subsection phrase “before the sea urchins are landed” would be deleted.

Rationale

The current regulation requires dive logs to be completed and submitted before sea urchins are landed. Since urchins could be landed right as a fishing vessel docks, a fisherman may have to reach the nearest mail box to drop off a dive log before returning immediately back to his or her vessel to land the urchins while the buyer waiting idly at the dock. Furthermore, subsection 190(c) already prescribes a set of condition of when logs must be submitted to the Department. Removing the extra language in subsection 120.7(m), which is not found in the regulations for any other fishery, clarifies the required log requirements.

(6) **Remove Subsection (n)(2), Closed Areas**

Proposed Change

The proposed amendment would delete the current subsection (n)(2), which prohibits commercial sea urchin take inside Gerstle Cove, California. Subsection (n) is renumbered (o).

Rationale

The subsection restricting commercial sea urchin take is unnecessary, since subsection 632(b)(36) already prohibits all commercial take in Gerstle Cove.

(7) **Amend Subsections (o)(1)-(3); Size Limit**

Proposed Change

The proposed amendment to subsection (o), renumbered (p), and reword subsections (o)(1) & (2) to be more streamlined and compact. It would also remove subsection (o)(3).

Rationale

Subsection (o)(1) prescribes a slot size limit for red sea urchin in southern California and subsection (o)(2) prescribes a similar slot size limit in northern California. Red sea urchins within these respective size ranges cannot be taken. However, both subsections then proceed to provide a 30-urchin per-load allowance for all commercial urchin fishermen. The language can be streamlined by integrating the allowances directly into the prohibitions.

Delete subsection (o)(3) which specifically allows the take of red sea urchins below the slot size limits. This language is moot, since an inclusive slot size limit by definition means that fishermen may take individuals smaller than the limit.

(8) **Amend Subsection (p), Authorization of an Assistant for a Sea Urchin Diver Permittee.**

Proposed Change

The proposed changes would rephrase subsection (p), renumbered (q). The proposed changes would make several minor edits throughout subsection (p), and delete (p)(5), to help improve the clarity of the regulation.

Rationale

The current phrasing of subsection (p)(1) needs clarification. Separating the current requirements into subparagraphs will improve the overall flow of the language.

The current provision in (p)(5) was adopted more than 18 months ago and therefore the term of this provision has lapsed and is deleted for clarity.

(9) **Amend Subsection 705(c)(4), Commercial Fishing Applications, Permits, Tags and Fees: Sea Urchin Diving Permit Drawing Application and Fee.**

Present Regulations.

Current applicants for the sea urchin diving permit drawings are required to fill out a paper application form (FG 1440 (Rev. 1/13)) in order to enter the drawing for a sea urchin diving permit. The application does not incur any cost on the part of the applicant.

Proposed Regulations

The proposed regulation would remove reference to the current drawing application form from the regulations and add a minor administrative fee of \$4.38 for future applications for entering the drawing.

Rationale

The new drawing system would be migrated to an online system, making the paper application form obsolete. Any reference to the old application form would be removed. A new application fee is imposed because the Department must expend resources every year in order to track the qualified pool of diving permit applicants. The Department must also review the eligibility of successful applicants when new permits are issued. Under Fish and Game Code Section 710.5(b), it is the legislature's intent for the Department's operation to be funded by the fees collected from the users of wildlife resources. The calculation of the proposed fee is provided for in Attachment 1 of this ISOR.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 713, 1050, 9054 and 9055, Fish and Game Code.

Reference: Sections 713, 1050, 7850, 7852.2, 7857, 9054 and 9055, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change: None

- (d) Identification of Reports or Documents Supporting Regulation Change:

1. Ecotrust, Report to the Marine Life Protection Act Initiative: Commercial and recreational fishing grounds and their relative importance off the North Central Coast of California, 2008; South Coast of California, 2010 and North Coast of California, 2011.
2. 2010 CDFW Urchin MSY Power Point Presentation
3. Attachment 1: Item Fee Calculation & Cost Recovery Sheet for Sea Urchin Diving Permit Drawing

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

1. October 8, 2014 Commission Meeting
2. November 21, 2014 California Sea Urchin Commission Meeting
3. October 7, 2015 Commission Meeting
4. April 28, 2017 Oxnard Port Meeting

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

Total Allowable Catch in place of a Capacity Reduction

A Total Allowable Catch (TAC) could be used to limit the amount of sea urchin harvested per year by quota in lieu of reducing the number of sea urchin divers. The TAC allotment could be based on historical catch, maximum sustainable yield, stock assessments, and/or model simulations. It would take in account the potential latent effort from inactive sea urchin divers, which is currently about 50 percent of the permits. Given the fact that 150 divers could still potentially overharvest the resource of sea urchin, a TAC would limit the amount of poundage harvested based a sustainable estimation of take and could be adjusted based on the status of the fishery each year or as needed.

Harvest restrictions such as a TAC would prove to be very expensive and cumbersome for the Department to carry out and operate because it depends on staff to track the fishery in real time in order to shut down the fishery when the quota is filled. Similarly, an Individual Fishery Quota, which limits harvest per fisherman, would be just as expensive and cumbersome to enforce and track.

TAC fisheries invariably lead to a rush for the fish, resulting in an increase in competition in a shorter amount of time. Divers would inevitably be taking more chances to get their share of the catch by diving longer and deeper, or going out in inclement weather. This type of fishery could also be very impactful to the economic viability of the active sea urchin divers, limiting them on when they can make their landings thus making it more difficult to compete with worldwide markets.

For the reasons stated above, a TAC is rejected as an alternative to capacity reduction for this fishery.

(b) No Change Alternative:

The no change alternative would keep the existing regulations in place. Currently, the number of annual renewed permits cannot exceed 300, if less than 300, replacement permits would be issued on a one-for-one basis. With the high average age and high latency of the current permit holders, the fishery contains significant latent effort. As older, less active fishermen retire, they will gradually be replaced by younger, more active ones. Such increase in fishing effort can potentially create shocks to both the red sea urchin population and the sea urchin fishery.

Under a no change alternative, the open season June - October would remain at four days per week. Urchin fishermen in California will continue to face a market handicap against other urchin fisheries, which can provide the market with fresh urchin every day of the week. In addition, consumers in California who buy urchins from local fish markets, which tend to occur on Saturdays, would not be able to access the freshest possible urchin.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action have 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 because the proposed action will not increase costs or reduce harvest quotas. The gradual reduction in the number of permits issued to 150 will accommodate the 125 average number of active urchin divers. Over time, a reduction in permits issued should align the number of divers with the size of the harvesting grounds, increase the average catch per unit of effort and ensure the long-run sustainability of the fishery.

The addition of one more day per week of fishing during the months of June through October is anticipated to enable sea urchin divers more flexibility to harvest and bring fresh product to market at peak demand. This change should assist California sea urchin businesses in remaining competitive.

(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; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

No impacts on the creation or elimination of jobs within the state, the creation of new businesses or the elimination of existing businesses are anticipated because the proposed action will not increase costs or reduce harvest quotas.

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

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

The Department may experience a reduction in permit sales revenue with the gradual decline in the number of permits issued from the current 300 to 150 over time. Permits are \$461 per diver annually. If some of the sea urchin diving permittees choose not to renew at a rate of five percent each year, and an estimated 80 applicants enter the annual draw for a new permit, the Department could have revenue losses of about \$6,575 in the current year and an estimated \$6,229 - \$5,901 in the next two fiscal years.

Table 2. Estimated Revenue Impact to the State

Fiscal Year	Inactive Permits Retained	10% Permits Retired	Department Fee Revenue Loss
2018/19	150	15	\$ 6,915
2019/20	135	14	\$ 6,224
2020/21	122	12	\$ 5,601

No change to federal funding to the State is anticipated.

(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.

VII. Economic Impact Assessment:

The sea urchin industry has expressed concern about possible excess capacity in the fishery that may result in overutilization or interfere with efficient and economic operation of the fishery. The proposed regulatory action is intended to reduce the number of permits sold to prevent overutilization and to ensure the

efficient and economic operation of the fishery. A 2015 Department study found that the per-diver marginal revenue is the highest when only 99 of the most active fishermen are counted suggesting the potential economic benefit of fewer fishery participants. The industry has agreed with the capacity goal of 150 permits from the current 300 permits.

The addition of one more day per week of fishing during the months of June through October is anticipated to enable sea urchin divers more flexibility to harvest and bring fresh product to market at peak demand. This change should assist California sea urchin businesses in remaining competitive.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

No impacts on the creation or elimination of jobs within the state are anticipated because the proposed action will not increase costs or reduce harvest quotas. These actions are intended to align the number of permits issued, which should increase the average catch per unit of effort and ensure the long-run sustainability of the fishery.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

No impacts on the creation of new businesses or the elimination of existing businesses are anticipated because the proposed action will not increase costs or reduce harvest quotas. These actions are intended to align the number of permits issued, which should increase the average catch per unit of effort and ensure the long-run sustainability of the fishery.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State: None.

(d) Benefits of the Regulation to the Health and Welfare of California Residents: None.

(e) Benefits of the Regulation to Worker Safety:

The addition of another weekday during June through October will give sea urchin divers greater flexibility in working around dangerous ocean conditions, and military training activities, thus providing greater safety to the divers.

(f) Benefits of the Regulation to the State's Environment:

The proposed capacity reduction actions are anticipated to be the most cost-effective way to ensure sustainability and viability of the red sea

urchin fishery.

(g) Other Benefits of the Regulation: None.

Informative Digest/Policy Statement Overview

Currently, subsection 120.7(d), Title 14 of the California Code of Regulations (CCR) sets the total number of sea urchin diving permits at 300. Subsection 120.7(e) further prescribes a random drawing system for distributing new permits as they become available. Under the current system, applicants who have held a sea urchin crewmember permit for more than two years would have his/her name entered into the draw one additional time for each additional year he/she has held such permit. However, this advantage is very small in practice due to a maximum cap of five times that a name may be entered into a draw.

Currently Section 750(c)(4) requires no fee for the random drawing application.

SUMMARY OF THE PROPOSED AMENDMENTS

The proposed amendments to subsection (d) would decrease the sea urchin fishery's capacity goal to 150 permittees. This capacity goal will be achieved by issuing one new permit only once 11 permits have been retired. This ratio was chosen to simplify the calculation in which new permits would be issued, taking in account the new permit that is added to the fishery.

The lottery system proposed in subsection (e) and (f) will ensure that the most qualified applicants would enjoy a realistic advantage over less-qualified applicants. Under the new system, most of the new permits would be given to applicants with the most experience in the fishery as crewmembers. The remaining percentage of the new permits would be distributed under a drawing system where every remaining applicant stands the same chance.

The proposed amendment to Section 750(c)(4) would remove reference to the current drawing application form and add a minor administrative fee of \$4.38 for future applications to enter the drawing.

Other amendments to Section 120.7 include:

- Add one extra fishing day per week in the months of June to October in Southern California.
- Clarify the requirements for authorization of an assistant for a sea urchin diver permittee.
- Remove language that no longer has any effect and clarify other regulatory text.

BENEFITS OF THE PROPOSED REGULATIONS

The proposed amendments would significantly decrease the latent fishing capacity within the current sea urchin fishery due to a large number of unused permits. The

changes would also strike a better balance for the future succession of the fishery by ensuring that the most qualified candidates would receive sea urchin diving permits in due course. At the same time, those who may not be as qualified but nonetheless are still willing and able would still have a chance of receiving one of these permits.

The additional dive days during the summer and fall months would allow divers to dive on days with the safest weather condition. The additional days would also help the industry meet the demand of Saturday dock markets and weekend demand. The added harvesting pressure is anticipated to be minimal, but the quality will be greatly enhanced to the consuming public.

CONSISTENCY WITH STATE REGULATIONS

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. Commission staff has searched the California Code of Regulations and statutes and has found no other State regulations related to take of sea urchin for commercial purposes and no other State agency with authority to promulgate regulations concerning take of sea urchin for commercial purposes.

REGULATORY TEXT

Section 120.7, Title 14, CCR, is amended to read as follows:

§ 120.7. Taking of Sea Urchins for Commercial Purposes.

(a) Permit Required.

(1) Any person taking or assisting in the taking of sea urchins for commercial purposes shall have obtained a valid sea urchin permit and shall be in possession of said permit when engaged in such activities. A sea urchin diving permit is not required to operate or assist in operating a vessel used to take sea urchins, however, no person without a valid sea urchin diving permit shall engage in diving from a vessel from which sea urchins are being taken or possessed for commercial purposes, unless authorized by the department's marine region regional manager or his or her designee for the purposes of sea urchin management or research.

(2) To provide an economic incentive for cooperative sea urchin management and research activity, and notwithstanding any other portion of this section, the department may authorize the holder of a valid sea urchin diving permit to harvest (take, possess, land and/or sell) red sea urchins during a closed season or in a closed area, subject to such restrictions regarding date(s), location(s), time(s), size, poundage or other matters as specified by the department. Any data collected during such harvest activity shall be made available to the department. The form of this authorization shall be a letter from the department's marine region regional manager or his or her designee issued to the permittee and containing all conditions of use.

(b) Classes of Permits.

(1) Sea Urchin Diving Permit. Sea urchin diving permits will be issued to licensed commercial fishermen 16 years of age or older who have qualified for permits pursuant to subsection (c).

(2) Sea Urchin Crewmember Permit. Sea urchin crewmember permits will be issued to licensed commercial fishermen 16 years of age or older who do not qualify for sea urchin diving permits.

(c) Permit Renewal.

(1) Applicants for renewal of sea urchin diving permits must have held a valid, unrevoked sea urchin diving permit in the immediately preceding permit year (April 1-March 31).

~~(2) In 2008, applications for renewal of sea urchin diving permits shall be received by the department or, if mailed, postmarked no later than June 30. In 2009, and thereafter,~~
applications Applications for renewal of sea urchin diving permits shall be received by the department or, if mailed, postmarked no later than April 30. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(d) Number of Permits.

(1) All qualified prior sea urchin diving permittees shall be eligible to receive diving permits regardless of the number issued.

(2) If the number of diving permits issued to prior permittees is less than ~~300~~ 150, the number of new sea urchin diving permits to be issued shall only be the difference between the number of diving permits issued to prior permittees in the immediately preceding permit year (ending March 31) and ~~300~~ 150. ~~If the number of permits issued to prior permittees is 300 or more, no new sea urchin diving permits shall be available.~~

(3) While the number of diving permits issued to prior permittees is greater than 150, only one new sea urchin diving permit shall be available for every 11 permits that are retired pursuant to Fish and Game Code subsection 7852.2(c).

(e) New Permittees Applications for New Permits:

~~(1) Applications as specified in Section 705 for the issuance of any new sea urchin diving permits that may become available each year shall be received by the department or, if mailed, postmarked no later than June 30. Applications shall be submitted to the department's License and Revenue Branch office in Sacramento. If any new sea urchin diving permits are available for issuance, as provided in subsection (d)(2), they shall be issued to licensed commercial fishermen who held, for each of the two immediately preceding permit years, a valid sea urchin crewmember permit.~~

~~(2) If there are more applicants for sea urchin diving permits than there are permits available, a drawing will be held to determine which applicants will be eligible to purchase permits. Any person who submits more than one application for a new sea urchin diving permit in any one permit year will be excluded from the drawing. Each applicant who meets the criteria in subsection (e)(1) shall be entered into the drawing once. In addition, each applicant shall be entered into the drawing one more time for each additional year, above the minimum required two years, that the applicant possessed a valid sea urchin crewmember permit. No applicant shall be entered more than five times for each drawing. The drawing will be held on the third Wednesday in August each year. Permits will be issued to successful applicants in the order drawn. Payment of the fee for the sea urchin diving permit must be received at the department's License and Revenue Branch office in Sacramento on or before September 25.~~

(1) A drawing shall be held annually for any new sea urchin diving permits that become available for issuance.

(2) Applications for new sea urchin diving permits shall be made available each year through the department's Automated License Data System, at department license sales offices, the department's Internet Sales site, and at department's license agents authorized to sell commercial fishing licenses.

(3) Applicants shall apply by March 31 of each year.

(4) Applicants shall possess a valid Commercial Fishing License and a valid sea urchin Crewmember permit for each of the two permit years immediately preceding the permit year when drawing is done.

(5) Applicants shall pay the nonrefundable processing fee as specified in Section 705 for each drawing application.

(6) Each applicant shall receive a drawing receipt printed from the terminal or downloaded from the Internet. The receipt shall contain the applicant's name and permanent identification number, proof of entry into drawing, and their current preference points for the drawing.

(7) Applicants shall not submit more than one drawing application for the same license year.

(f) Drawings for New Permits

(1) The department shall award any new permits using a Modified-Preference Point drawing system.

(2) The Modified-Preference Point drawing system shall award proportions of permit quota using the following drawing methods:

(A) Preference Point Drawing: Permits in the preference quota are awarded based on the following order of priority: accumulated preference point totals (highest to lowest), and computer-generated random number (lowest to highest).

(B) Random Drawing: Permits in the random quota are awarded according to computer-generated random number (lowest to highest), without consideration of accumulated preference points.

(3) The available new permit quantity shall be split into separate quotas. Every fifth permit that becomes available shall belong to the random quota while all other permits shall belong to the preference quota. This four-to-one ratio for sorting will continue indefinitely.

(4) Successful applicants and a list of alternates shall be determined by drawing within 20 business days following the application deadline date. If the drawing is delayed due to circumstances beyond the department's control, the department shall conduct the drawing at the earliest date possible.

(5) Alternates shall be selected using a Preference Point Drawing.

(6) Successful applicants will be notified as soon as practical. Successful applicants shall submit the fee for a Sea Urchin Diving Permit, as specified in Fish and Game Code Section 9055 to the department's License and Revenue Branch by 5:00 p.m. on or before or, if mailed, postmarked no later than May 15 each year. If the deadline to submit the fee falls on a weekend or holiday payment will be accepted until the close of business on the first state business day following the deadline to submit payment.

(7) Should the available permit quota remain unfilled after that date, the alternate list shall be used to award any available permits.

(8) An applicant shall earn one (1) preference point each time the applicant participates in a drawing for sea urchin diving permit.

(9) Successful applicants or alternates that are issued a sea urchin diving permit shall lose all accumulated preference points for the drawing.

(10) Preference points shall not be transferred to another person.

(11) The department shall maintain records of preference points earned by each applicant based on the identification number assigned to each customer by the department's Automated License Data System. The customer's identification number, Get Outdoors ID (GO ID) will be printed on each drawing receipt issued by the Automated License Data System. Applicants shall notify the department's License and Revenue Branch in Sacramento in writing of any changes or corrections regarding name, mailing address, or date of birth.

(12) Persons not applying in the sea urchin diving permit drawing for five (5) consecutive years starting in 2018 shall have their preference points for the sea urchin drawing reduced to zero (0). For the purposes of this subsection, persons whose

applications are disqualified from drawing shall be considered the same as persons not applying.

(13) Eligible commercial fisherman that applied in the sea urchin diving permit drawing from 2006-2017 and were not awarded a sea urchin diving permit in any of these years shall be assigned one preference point for each year they applied in these drawings.

~~(f)-(g)~~ Fee. The applicant for a sea urchin crewmember permit shall submit the fees and the completed application, as specified in Section 705, to the address listed on the application.

~~(g)-(h)~~ Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

~~(h)-(i)~~ Vessel Identification. When sea urchins are taken under these regulations, the vessel's commercial registration number shall be displayed on both sides of the boat. The number shall be black, at least 10 inches high, and on a white background. All permittees aboard the boat shall be mutually responsible for the proper display of the vessel's commercial registration number.

~~(i)-(j)~~ Conditions of the Permit:

(1) No person shall take or possess lobsters or abalone aboard any boat used to take sea urchins under these regulations on any day that sea urchins have been taken or are to be taken.

(2) Hydraulic lifts and air lifts shall be used only in such a manner that no rocks or other mineral matter, aquatic plants, fish or other aquatic life except sea urchins, shall be removed from the bottom or otherwise disturbed.

~~(j)-(k)~~ Revocation of Permits. Any permit may be suspended, revoked, or canceled by the commission upon breach or violation of any fish and game regulation pertaining to the take of sea urchins or abalone; 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.

~~(k)-(l)~~ Exemption from Tidal Invertebrate Permit. A sea urchin diver or sea urchin crewmember operating under the provisions of this section is not required to possess a Tidal Invertebrate Permit, but is subject to the provisions of ~~section 123, Title 14, CCR~~ Section 123.

~~(l)~~ Fishing Season.

~~(1) From November through May, the open season for red sea urchins is seven days per week.~~

~~(2) From June through October, the open season for red sea urchins is Monday,~~

~~(3) During any closed period, no red sea urchins may be possessed on any commercially registered vessel, except that any commercially registered vessel may transport red sea urchins after any closure goes into effect, provided that the vessel is in port no later than 0800 hours on the first day of the closed period.~~

(m) Logbooks. Pursuant to Section 190 of these regulations, each permittee shall complete and submit an accurate record of all sea urchin fishing activities on a form (DFG-120.7 (2/08)), incorporated herein by reference, provided by the department ~~before the sea urchins are landed~~. The completed daily records shall be sent to the department address specified on the logbook on or before the tenth day of each month following the month to which the records pertain.

(n) Fishing Season.

(1) Red sea urchin shall not be taken for commercial purposes on Friday, Saturday, and Sunday north of the Monterey-San Luis Obispo county line from June 1 through October 31.

(2) Red sea urchin shall not be taken for commercial purposes on Saturday and Sunday south of the Monterey-San Luis Obispo county line from June 1 through October 31.

(3) During any closed period, no red sea urchins may be possessed on any commercially registered vessel, except that any commercially registered vessel may transport red sea urchins after any closure goes into effect, provided that the vessel is in port no later than 0800 hours on the first day of the closed period.

(n)-(o) Closed Areas.

(1) Sea urchins shall not be taken for commercial purposes in state marine reserves or state marine parks. Specific regulations in state marine conservation areas may prohibit the commercial take of sea urchins as per subsection 632(b).

~~(2) The Gerstle Cove area in Salt Point State Marine Conservation Area (Sonoma County) is closed to all commercial fishing for sea urchins. This area is delimited as all the ocean waters east of a line extending 180° true from the southernmost point of Salt Point (38° 33.92' N. lat. 123° 19.89' W. long.) and north of a line extending 270° true from the westernmost point of land of the unnamed point at the southern end of Gerstle Cove (38° 33.6' N. lat. 123° 19.37' W. long.).~~

~~(3)~~ (2) The South Caspar Point area in Mendocino County is closed to all commercial fishing for sea urchins. This area is bounded on the north by a line extending 90° magnetic from sea to the mouth of Caspar Creek (north bank) in Caspar Cove, on the south by the northern boundary of the Point Cabrillo State Marine Conservation Area and its westward extension to the 120-foot depth contour, on the west by 120-foot depth contour line connecting the north and south boundary lines, and on the East by the mainland shore. The Point Cabrillo State Marine Conservation Area remains closed to the take of all forms of marine life except as permitted in subsection 632(b).

(e)-(p) Size Limit.

(1) In southern California (south of the Monterey-San Luis Obispo county line) no more than thirty (30) red sea urchin-urchins between one and one-half (1 1/2) and three and one-quarter (3 1/4) inches in shell diameter, not including the spines or any portion of their ball-and-socket attachment to the shell, per permittee per load, may be taken, possessed, sold, or purchased, ~~except that not more than thirty (30) such red sea urchins per permittee per load may be taken, possessed, sold or purchased.~~

(2) In northern California (north of the Monterey-San Luis Obispo county line) no more than thirty (30) red sea urchin-urchins between one and one-half (1 1/2) and three and one-half (3 1/2) inches in shell diameter, not including the spines or any portion of their ball-and-socket attachment to the shell, ~~may be taken, possessed, sold or purchased, except that not more than thirty (30) such red sea urchins per permittee per load,~~ may be taken, possessed, sold or purchased.

~~(3) Red sea urchins less than one and one-half (1 1/2) inches in shell diameter shall not be considered as part of the thirty (30) undersized red sea urchins per permittee per load that may be taken, possessed, sold or purchased.~~

~~(4)~~ (3) Every sea urchin permittee shall carry and use an accurate measuring device, to determine the size of red sea urchins being taken as specified in ~~subsections (o)(1) and (o)(2) above herein~~, while diving for sea urchins for commercial purposes.

~~(p)~~ (q) Authorization of an Assistant for a Sea Urchin Diver Permittee.

~~(1) Authorization by Department. The holder of a sea urchin diving permit, who, after entering the sea urchin fishery, becomes, due to a severe unforeseen or catastrophic long term (expected to be for one year or longer) or permanent injury or disease, physically unable to dive, may designate a specific individual as an assistant, upon written approval from the department. The department may authorize, in writing, any one specific individual to be designated by the permittee as an assistant, providing the following conditions have been met:~~

(1) The holder of a sea urchin diving permit may designate a licensed commercial fisherman as a sea urchin diver assistant upon written approval from the department, provided that:

(A) The sea urchin diving permit has not been suspended or revoked;

(B) The permittee has become physically unable to dive due to a severe unforeseen or catastrophic long-term (expected to be for one year or longer) or permanent injury or disease; and,

(C) The injury or disease occurred after entering the sea urchin fishery.

(2) The department may authorize, in writing, the particular licensed commercial fisherman to be designated by the permittee as a sea urchin diver assistant, providing the following conditions have been met:

~~(A) the~~ The permittee provides documentation within 90 days of the request to the department from a qualified physician that the permittee suffers from ~~the a~~ disease or injury and it will prevent the permittee from diving. Such conditions shall not include short or long-term common illnesses, conditions caused or primarily exacerbated by aging, or any other condition which appears to be marginal or common, such as routine back or neck problems;

~~(B) the~~ The permittee has no violations or pending violations for which his or her permit could be revoked; and,

~~(C) the~~ The proposed sea urchin diver assistant has a current valid California commercial fishing license and has not had any California commercial fishing license or permit suspended or revoked; has never been convicted, and no charges are pending for a violation of any provision of the Fish and Game Code or Title 14, California Code of Regulations.

~~(2)~~ (3) Special Provisions:

(A) The authorized sea urchin diver assistant may take or assist in the taking of sea urchin only when in the company of the permittee and only for the duration of the permit year in which the authorization is issued.

(B) The permittee shall have no authority to, and shall not dive for sea urchin while a valid letter authorizing the permittee to designate an assistant exists, regardless of whether or not the assistant is actively diving.

(C) The authorized sea urchin diver assistant shall have no right to ownership or transfer of the permit beyond that which is otherwise provided by law.

(D) The sea urchin diving permit, in addition to the sea urchin diver assistant authority shall be subject to revocation, suspension or other actions provided in law or regulation, upon violations committed by the sea urchin diver assistant, when acting under the authority of a sea urchin diver assistant. The assistant shall take no actions authorized pursuant to a sea urchin diver permit without the consent of the permittee.

(E) The department shall review the authority authorized pursuant to this section at least once every year and may withdraw the authority if any of the conditions are not met.

~~(3)-(4)~~ (4) Fee Requirement. Any person authorized as a sea urchin diver assistant pursuant to this subsection shall annually pay a fee to the department equal to the amount required of permittees pursuant to Fish and Game Code Section 9055. The fee shall be submitted with the request for the assistant.

~~(4)-(5)~~ (5) Required Possession of Department Authorization. The sea urchin diver assistant shall carry the department's letter of authority whenever conducting activities authorized pursuant to the subsection.

~~(5) The department shall report to the commission within 18 months of the enactment of these provisions on the merits of the program. The department shall make a recommendation to the commission to either continue or discontinue the program, based on achievements and problems associated with the administration of these provisions.~~

Note: Authority cited: Sections 713, 1050, 9054 and 9055, Fish and Game Code.
Reference: Sections 713, 1050, 7850, 7852.2, 7857, 9054, and 9055, Fish and Game Code.

Section 705, Title 14, CCR, is amended to read:

§ 705. Commercial Fishing Applications, Permits, Tags and Fees.

... [No changes to subsections (a) through (c)(3)]

(4) ~~2013 Sea Urchin Diving Permit Drawing Application FG 1440 (Rev. 1/13), incorporated by reference herein.~~

No Fee 4.38

... [No changes to subsections (c)(5) through (d)]

Note: Authority cited: Sections 713 and 1050, Fish and Game Code.
Reference: Sections 713 and 1050, Fish and Game Code.



2013 SEA URCHIN DIVING PERMIT DRAWING APPLICATION

COMMERCIAL FISHING ID# L

Form Deleted from 705(c)(4)

IT IS MANDATORY TO COMPLETE ALL ITEMS UNLESS SPECIFIED AS VOLUNTARY.
INCOMPLETE APPLICATIONS WILL NOT BE ENTERED IN THE DRAWING. TYPE OR PRINT CLEARLY.

FIRST NAME	M.I.	LAST NAME	DATE OF BIRTH
MAILING ADDRESS			
CITY	STATE	ZIP CODE	DAY TELEPHONE (Voluntary)

Each applicant may only submit one application. Applicants submitting more than one application will be disqualified from the drawing (Section 120.7, Title 14, of the California Code of Regulations (CCR)). **A drawing will not be held if no new permits are available.**

NUMBER OF NEW PERMITS AVAILABLE: Section 120.7, Title 14 of the CCR, provides for the issuance of new Sea Urchin Diving Permits when the number of Sea Urchin Diving Permits issued prior to August 1 is either more than or less than 300. If the number of Sea Urchin Diving Permits issued to prior permittees is more than 300, the total number of Sea Urchin Diving Permits available for issuance is one-tenth of the difference between the number of Sea Urchin Diving Permits issued during the current permit year and the total number of Sea Urchin Diving Permits issued during the immediately preceding permit year (April 1, 2012 through March 31, 2013). If the number of diving permits issued to prior permittees is less than 300, the number of new Sea Urchin Diving Permits available is the difference between the number of permits renewed by prior urchin permittees and 300. Individuals who had a valid 2012-2013 Sea Urchin Diving Permit are eligible to renew their permits regardless of the number issued. New divers will be selected by random drawing on Wednesday, August 21, 2013. Successful applicants will be notified by certified mail. Payment of the \$456.75 fee is due by September 25, 2013.

TO ENTER THE DRAWING: Applicants must possess a valid 2013-2014 California Commercial Fishing License, and have possessed a valid 2011-2012 and 2012-2013 Sea Urchin Crewmember Permit. Each applicant who meets the above stated requirements shall be assigned one random number. One additional random number shall be assigned to each applicant for each additional year they possessed a valid Sea Urchin Crewmember Permit. Not more than five random numbers shall be assigned to any applicant for each drawing.

DEADLINE TO APPLY—Mail this application with a copy of your 2013-2014 California Commercial Fishing License along with copies of required Sea Urchin Crewmember Permits to the California Department of Fish and Wildlife, License and Revenue Branch, 1740 N. Market Blvd., Sacramento, CA 95834, (916) 928-5822. **Applications must be received at the License and Revenue Branch in Sacramento or, if mailed, be postmarked on or before June 30, 2013.**

DO NOT SEND PERMIT FEE WITH APPLICATION.

I hereby certify that all information contained on this application and/or submitted to meet the requirements of this permit is correct and true. I understand that, in the event that this information is found to be untrue or incorrect, the permit issued will be considered invalid and must be surrendered to the California Department of Fish and Wildlife and that I will be subject to criminal prosecution. This permit may be revoked or suspended by the Fish and Game Commission if you are convicted of, or plead guilty or nolo contendere to, a Fish and Game violation. If drawn, I am eligible to receive this permit and I am not under revocation or suspension nor is there a case pending that would restrict me from obtaining this permit.

APPLICANT'S SIGNATURE X	DATE
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FOR CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE USE ONLY

DRAWING ELIGIBILITY VERIFIED BY	<input type="checkbox"/> 2013-2014 CFL <input type="checkbox"/> 2011-2012 and 2012-2013 Sea Urchin Crewmember Permits
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State of California
Department of Fish and Wildlife

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION

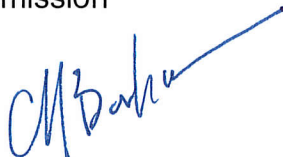
Memorandum

2017 SEP 28 PM 3:10

Date: September 26, 2017

To: Valerie Termini
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Notice of Exemption for Proposed Amendment of Section 120.7, Title 14, California Code of Regulations; Sea Urchin Fishery Regulations**

Attached please find the Draft Notice of Exemption (NOE) to amend Section 120.7 and Section 705 in Title 14 of the California Code of Regulations (CCR). The attached NOE has been prepared pursuant to Section 15062 of the California Environmental Quality Act (CEQA) Guidelines. Since the NOE is not anticipated to change, this early submission gives the Commission notice of the Department's recommendation to rely on CEQA exemption for the proposed actions.

The review effort by Department staff pursuant to CEQA Guidelines Section 15061 lead staff to conclude that proposed amendments to section 120.7 and section 705, Title 14, CCR fall within the Class 7 categorical exemption (CEQA Guidelines Section 15307). The regulations are intended to reduce the significant latent effort within the commercial sea urchin fishery, favor participation by new entrants that are more likely to be familiar with best fishing practices, and improve flexibility within the fishery's operation. Staff has also reviewed all of the available information possessed by the Department relevant to the issue and does not believe that the Commission's reliance on the Class 7 categorical exemption is precluded by the exceptions set forth in CEQA Guidelines Section 15300.2.

In addition, proposed changes to clean up existing language within section 120.7, Title 14, CCR, is administrative in nature; therefore, will not result in a direct or indirect physical change to the environment. The proposed changes would clarify potentially ambiguous language and remove language that no longer have any regulatory effect. Since there is no possibility that the proposed clarifying changes would have the potential to have a significant adverse effect on the environment, the action is exempt from CEQA pursuant to the General Rule exemption (CEQA Guidelines subdivision 15061(b)(3)).

Valerie Termini, Executive Director
Fish and Game Commission
September 26, 2017
Page 2

If you have any questions regarding this item, please contact Dr. Craig Shuman, Regional Manager, Marine Region, at (805) 568-1246.

Attachments

ec: Stafford Lehr, Deputy Director
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Stafford.Lehr@wildlife.ca.gov

Craig Shuman, D. Env.
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Sheri Tiemann, Regulatory Analyst
Fish and Game Commission
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Robert Puccinelli, Captain
Law Enforcement Division
Robert.Puccinelli@wildlife.ca.gov

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: N/A

From: (Public Agency): CA Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

(Address)

Project Title: Amend Section 120.7 Commercial Sea Urchin Regulations

Project Applicant: California Department of Fish and Wildlife

Project Location - Specific:
Statewide

Project Location - City: N/A

Project Location - County: N/A

Description of Nature, Purpose and Beneficiaries of Project:

Amend commercial sea urchin fishing regulations to reduce the sea urchin fleet capacity from 300 to 150 dive permits, prescribe a new drawing system for distributing permits, add one extra fishing day per week in the months of June to October in Southern California, and clean-up outdated regulatory language.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: (check one):

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: 14 CCR 15307 & 15061(b)(3)
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:
See attached.

Lead Agency
Contact Person: Valerie Termini Area Code/Telephone/Extension: (916) 653-4899

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: _____ Date: 12/7/2017 Title: Executive Director

☒ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

December 7, 2017

ATTACHMENT TO NOTICE OF EXEMPTION
Adoption of Commercial Sea Urchin Regulations Amendments

The California Fish and Game Commission (Commission) has taken final action under the Fish and Game Code and the Administrative Procedure Act with respect to the proposed rulemaking on December 7, 2017. On August 17, 2017, the Commission authorized notice of its intent to amend Section 120.7, Title 14, California Code of Regulations (CCR) to reduce the sea urchin fleet capacity goal to 150 dive permits, prescribe a new drawing system for distributing permits, add one extra fishing day per week in the months of June to October in Southern California, and adopt several cleanup items for the commercial sea urchin regulation. The proposal would also institute a nominal fee of \$4.38 per sea urchin diving permit applicant under Section 705, Title 14, California Code of Regulations to recover the cost of administering the new drawing system. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Pub. Resources Code, § 21000 et seq.), the Commission adopted the regulations relying on the Class 7 categorical exemption for "Actions by Regulatory Agencies for Protection of Natural Resources" contained in CEQA Guideline Section 15307 (Cal. Code Regs., tit. 14, § 15307) and the General Rule Exemption (Cal. Code Regs., tit. 14 § 15061(b)(3)).

Categorical Exemptions to Protect Natural Resources

In adopting the amendments to the commercial sea urchin fishing regulations, the Commission relied for the purposes of CEQA on the Class 7 categorical exemption. The exemption applies to agency actions to protect natural resources.

The California sea urchin fishery is a state managed, limited entry fishery consisting of 300 dive permittees. The fishery is highly selective in nature as the marketability of sea urchin depends on gonad yield and quality. Although landings have been stable in recent decades, the potential for overharvesting due to latent effort is a major issue in the sea urchin fishery. During the period from 2007 and 2016, landings data show that 97 to 100 percent of the catch were taken by the top 150 permittees and the other 50% of the fishery has not been contributing to the total landings. The proposed regulations would decrease the fishery capacity goal from 300 to 150 permittees to reduce latent capacity (i.e. effort) and protect the fishery and resource from drastic fluctuations in effort, resource level, and market demand.

The proposed regulations would also add one extra fishing day per week in the months of June to October in southern California (21 additional fishing days) for red sea urchin. Based on available logbook data, divers are not harvesting red sea urchin on all the open fishing days during the summer season. Operational factors such as vessel maintenance and inclement weather limit divers to an average of 28 days of the total open fishing days (87 or 88 days, depending on the year) during the summer season (June-Oct). The expanded fishing week during the summer season would allow more flexibility in selecting fishing days with safer water conditions and to provide a fresh

product for weekend markets. Since divers check gonad quality and are size selective while fishing to ensure that the sea urchin meet certain product standards, the proposal may improve the quality of catch and better match harvest to markets thereby, reducing waste.

The above-described proposed action is undertaken to assure the maintenance and sustainability of the sea urchin fishery as a natural resource. The Commission has determined that there are neither significant cumulative impacts of successive projects of the same type in the same place, nor is there a reasonable possibility the proposed action will have a significant effect on the environment due to unusual circumstances. Accordingly, the Commission concludes that the proposed action is properly subject to the CEQA Class 7 categorical exemption.

General Rule Exemption

A general clean-up of outdated and extraneous regulatory language is also proposed in Section 120.7. In adopting the proposed amendments to clean up the regulatory language, the Commission determined that it could be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment (Cal. Code Regs., tit. 14 § 15061(b)(3)). Because the proposed amendments are administrative in nature, the Commission's adoption of these amendments will not result in a direct or indirect physical change to the environment. Since there is no possibility that the proposed action would have a significant adverse effect on the environment, the action is exempt from CEQA.

In addition, the proposed regulations would replace the current permit drawing system for retired permits with a new Modified-Preference Point drawing system. The new drawing system will also impose a nominal fee of \$4.38 to cover the cost of administering the drawings.



Adoption Hearing:

Proposed Amendments to Commercial Sea Urchin Regulations



David Goldenberg
Executive Director, CA Sea Urchin
Commission



Derek Stein
CDFW - Marine Region

California Fish and Game Commission Meeting
December 7, 2017

Presentation Overview

Proposed Changes:

- **Capacity Reduction**
- **Preference Point Permit Draw System**
- **Expand Southern California Dive Days**



Capacity Reduction

Number of Permit Holders

- **Current : 300**
- **Proposed: 150**

Rationale

Latent Effort In The Fishery

- 150 divers account for 97% of annual landings since 2006
- Inactive divers may decide to fish if demand increases

Poor Environmental Conditions



- Lack of kelp, warmer water, and competing purple urchins

Increasing Concentration of Effort

- Due to fewer harvestable areas and protected areas (i.e. MPAs and military closures)

Preference Point Draw System

- **Current:** One permit issued for each one retired using random lottery system capped at 5 chances per individual
- **Proposed:** Preference point draw system; one permit issued for 11 retired until new capacity is reached, then one permit issued for each one retired. Individuals are not capped.

Permit Count	289	279	269	259	249		149 or less
Preference Points	1	1	1	1	---		One new permit issued when one retired using same ratio
Random Draw	---	---	---	---	1		

Expand Southern California Dive Days

Current	Proposed
Open <u>Monday through Thursday</u> : June through October	Open <u>Monday through Friday</u> : June through October south of Monterey County

Evolving Market Dynamics

- **Growing weekend demand**
 - local Saturday markets
 - restaurants





Questions?

