

STAFF SUMMARY FOR FEBRUARY 6, 2019

25. RECREATIONAL TAKE OF PURPLE SEA URCHIN (REGULAR RULEMAKING)**Today's Item**Information Action

Consider adopting proposed regulations to add Section 29.06 for the recreational take of purple sea urchin.

Summary of Previous/Future Actions

- | | |
|-----------------------------------|--------------------------------|
| • MRC vetting | Mar 6, 2018; MRC, Santa Rosa |
| • Adopted emergency regulations | Apr 18-19, 2018; Ventura |
| • Emergency regulations extended | Oct 17, 2018; Fresno |
| • Notice hearing | Oct 17, 2018; Fresno |
| • Discussion hearing | Dec 12-13, 2018; Oceanside |
| • Today's adoption hearing | Feb 6, 2019; Sacramento |

Background

For additional background information, please see the staff summary from the Dec 2018 discussion hearing (Exhibit 1).

The proposed regulation would add a new section (29.06), and modify provisions of the emergency regulation governing the recreational take of purple sea urchin in the following ways:

1. Increase the daily recreational take limit to 40 gallons while skin or SCUBA diving;
2. Apply the take allowance to waters off Humboldt County in addition to Sonoma and Mendocino counties;
3. Exempt the take from a daily possession limit; and
4. Includes an option which, if selected, would add Del Norte County to the list of counties for which the take allowance applies.

See Exhibit 3 for more details.

At this time, FGC staff does not believe that the inclusion of Del Norte County is warranted; the ecosystem imbalance that precipitated the rulemaking in Sonoma, Mendocino and Humboldt counties is not documented in this area.

California Environmental Quality Act (CEQA)

A notice of exemption (Exhibit 4) has been drafted consistent with FGC staff's recommendation to rely on CEQA categorical exemptions (Class 7 and 8) for these regulation changes. Staff has reviewed all of the available information possessed by FGC relevant to the issue and does not believe adopting the regulation changes pose any unusual circumstances that would constitute an exception to the categorical exemptions set forth above. Compared to the activities that fall within Class 7 and Class 8 generally, which include the example of wildlife preservation activities, such as the effort here, there is nothing unusual about the

STAFF SUMMARY FOR FEBRUARY 6, 2019

proposed regulation changes. In addition, even if there were unusual circumstances, no potentially significant effects on either a project-specific or cumulative basis are expected.

Significant Public Comments

1. A commenter requests FGC assistance in promoting additional urchin eradication efforts and events. He also suggests to open commercial urchin permit sales to sport divers (Exhibit 7).
2. A commenter from the Humboldt area writes to support the proposed regulation and does not see the need to include Del Norte county (Exhibit 8).

Recommendation

FGC staff: Determine that adopting the regulation is exempt consistent with the draft notice of exemption and adopt the regulation changes as proposed, excluding Del Norte County.

DFW: Select whether to include Del Norte County, and adopt the regulation changes as proposed.

Exhibits

1. [Staff summary from the Dec 12-13, 2018 discussion hearing, Agenda Item 9 \(for background only\)](#)
2. [DFW memo, received Nov 14, 2018](#)
3. [Initial statement of reasons](#)
4. [Draft notice of exemption and attachment](#)
5. [Email in lieu of pre-adoption statement of reasons, received Jan 25, 2019](#)
6. [Economic and fiscal impact statement \(Std. 399\)](#)
7. [Email from Robert Soroka, received Dec 22, 2018](#)
8. [Email from Brandi Easter, received Jan 11, 2019](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission determines the project is exempt from the California Environmental Quality Act as being categorically exempt and adopts proposed changes to add Section 29.06 related to the recreational take of purple sea urchin as proposed, excluding Del Norte County.

OR

Moved by _____ and seconded by _____ that the Commission determines the project is exempt from the California Environmental Quality Act as being categorically exempt and adopts proposed changes to add Section 29.06 related to the recreational take of purple sea urchin as proposed, including Del Norte County.

STAFF SUMMARY FOR DECEMBER 12-13, 2018

9. RECREATIONAL TAKE OF PURPLE SEA URCHIN

Today's Item

Information Action

Discuss proposed changes to regulations concerning the recreational take of purple sea urchin.

Summary of Previous/Future Actions

- | | |
|--|-----------------------------------|
| • Emergency regulation adopted | Apr 18-19, 2018; Ventura |
| • Emergency regulation extension adopted | Oct 17, 2018; Fresno |
| • Notice hearing for Section 29.06 | Oct 17, 2018; Fresno |
| • Today's discussion hearing | Dec 12-13, 2018; Oceanside |
| • Adoption hearing | Feb 6, 2019; Sacramento |

Background

On Apr 18, 2018, FGC adopted emergency regulations to increase recreational take of purple sea urchin from 35 individuals to 20 gallons in coastal waters off Mendocino and Sonoma counties; the purpose for this increase is to address conditions adversely affecting bull kelp and red abalone. FGC approved a 90-day extension of the emergency regulation at its Oct 17, 2018 meeting.

This regulatory proposal, under a regular rulemaking, would add Section 29.06 to provide for a daily recreational bag limit of 40 gallons of purple sea urchins while skin or SCUBA diving off waters of Humboldt, Mendocino and Sonoma counties. The proposal would exempt from any possession limit all recreationally-taken purple sea urchin, as does the emergency regulation. An option to this action would add Del Norte County.

Severe environmental conditions over the past several years have caused a collapse of the bull kelp (*Nereocystis luetkeana*) forest in the waters of the northern California coastline. The combination of unprecedented environmental and biological stressors has led to severe impacts on marine life that inhabit kelp forests, including widespread starvation and death of abalone (*Haliotis spp.*). In 2016 and 2017, more than 25 percent of abalones assessed (> 6,000 abalone per year) in nine creel surveys at key fished sites in Sonoma, Mendocino, and Humboldt counties had shrunken foot muscle due to starvation. Starved abalones have increased chance of mortality and severely reduced fecundity.

FGC closed the red abalone fishery for the 2018 season in Dec 2017, and it remains closed. Recovery of the abalone fishery will not be possible without the eventual recovery of bull kelp forests and the return of sufficient food to support abalone survival and reproduction.

Kelp recovery has been severely limited in part due to the proliferation of purple sea urchins (*Strongylocentrotus purpuratus*). Unlike abalone, sea urchins are generally resilient to food shortage and can survive longer without food, and therefore grazing pressure from surviving sea urchins may prevent kelp recovery. The urchin population boom is further exacerbated by the absence of important predatory sea stars (*Pisaster spp.*), which were severely impacted by

STAFF SUMMARY FOR DECEMBER 12-13, 2018

the sudden onset of sea star wasting syndrome in 2013. Sea stars have since been recovering at a very slow pace, providing only marginal impact on purple sea urchins.

DFW will provide a presentation at the meeting on this item. See Exhibit 3 for additional background information.

Significant Public Comments

1. A commenter supports expansion of take and would like to see more organized events for take of urchins (Exhibit 5).
2. The Pala Band of Mission Indians supports any action which protects coastal resources (Exhibit 6).
3. A commenter would like FGC to remove restrictions related to Section 1.87, Waste of Fish, to make legal the waste of urchins (Exhibit 7).

Recommendation (N/A)**Exhibits**

1. DFW memo, received Nov 14, 2018
2. Initial statement of reasons
3. Staff summary from Oct 17, 2018 meeting, Agenda Item 6
4. Economic and fiscal impact statement (Std. 399)
5. Email from Jeff Libarle, received Nov 27, 2018
6. Email from Kurt Broz, Pala Band of Mission Indians, received Nov 27, 2018
7. Email from Ben Wolfe III, received Nov 21, 2018

Motion/Direction (N/A)

2018 NOV 14 AM 9:30

Memorandum

Date: November 9, 2018

To: Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director



Subject: **Submission of Initial Statement of Reasons to Add Section 29.06, Title 14, Recreational take of Purple Sea Urchin**

The Fish and Game Commission (Commission) authorized publication of its intent to add Section 29.06 of Title 14 of the California Code of Regulations (CCR) regarding the recreational take of purple sea urchins, at its October meeting. The proposed regulation includes the following:

- Increase the daily recreational take limit to 40 gallons
- Apply the take allowance to waters off Sonoma, Mendocino, and Humboldt counties
- Include an option to extend the take allowance to Include waters off Del Norte county
- Exempt all recreationally taken purple sea urchin from possession limit

Transmittal of the attached Initial Statement of Reasons (ISOR) to the Commission will allow for the publication of the ISOR prior to the scheduled discussion hearing in December.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Marine Regional Manager at (916) 445-6459. The public notice for this rulemaking should identify Environmental Scientist, Anthony Shiao as the Department's point of contact. His contact information is (805) 560-6056 or Anthony.Shiao@Wildlife.ca.gov.

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Craig Shuman, D. Env., Regional Manager
Marine Region
Craig.Shuman@Wildlife.ca.gov

Melissa Miller-Henson
Acting Executive Director
Fish and Game Commission
November 9, 2018
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Cynthia Catton, Environmental Scientist
Marine Region
Cynthia.Catton@wildlife.ca.gov

Robert Puccinelli, Captain
Law Enforcement Division
Robert.Puccinelli@wildlife.ca.gov

Mary Loum, Staff Counsel
Office of General Counsel
Mary.Loum@wildlife.ca.gov

Michelle Selmon, Program Manager
Regulations Unit
Wildlife and Fisheries Division
Michelle.Selmon@wildlife.ca.gov

Mike Randall, Analyst
Regulations Unit
Wildlife and Fisheries Division
Mike.Randall@wildlife.ca.gov

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Add Section 29.06
Title 14, California Code of Regulations
Re: Purple Sea Urchin

I. Date of Initial Statement of Reasons: November 5, 2018

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing: Date: October 17, 2018
 Location: Fresno, CA

(b) Discussion Hearing: Date: December 12, 2018
 Location: Oceanside, CA

(c) Adoption Hearing: Date: February 7, 2019
 Location: Sacramento, CA

III. Description of Regulatory Action

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

The addition of Section 29.06 increases the recreational take of purple sea urchin. This is one of several actions taken by the Department that is necessary to protect the historic and valuable ocean habitat on the northern California coast. Unchecked, the purple sea urchin has impacted the recovery of kelp beds off the coast of northern California, thus causing the ensuing decline of abalone and other important marine life dependent on this unique ecosystem.

Background

Severe environmental conditions over the past several years have caused a collapse of the bull kelp (*Nereocystis luetkeana*) forest in the waters of the northern California coastline. The combination of unprecedented environmental and biological stressors has led to severe impact on marine life that inhabit kelp forest, including widespread starvation and death of abalone (*Haliotis spp.*). In 2016 and 2017, more than 25 percent of abalones assessed (> 6,000 abalone per year) in nine creel surveys at key fished sites in Sonoma, Mendocino, and Humboldt counties had shrunken foot muscle due to starvation. Starved abalones have increased chance of mortality and severely reduced fecundity.

The Fish and Game Commission (Commission) voted to close the red abalone fishery for the 2018 season in December 2017. Since then, the poor condition of the kelp forests has continued to persist. In August 2018, after considering stakeholder input, the Commission agreed to consider extending the closure.

Recovery of the abalone fishery will not be possible without the prompt recovery of the bull kelp forests and the return of sufficient food to support abalone survival and reproduction.

Kelp recovery has been severely limited (<10% remaining in Sonoma and Mendocino counties) in part due to the proliferation of purple sea urchins (*Strongylocentrotus purpuratus*). Unlike abalone, sea urchins are generally resilient to food shortage and can survive longer without food, and grazing pressure from surviving sea urchins may prevent kelp recovery even as ocean condition rebounds. The urchin population boom is further exacerbated by the absence of important predatory sea stars (*Pisaster spp.*), which were severely impacted by the sudden onset of the disease sea star wasting syndrome in 2013. Sea stars have since been recovering at a very slow pace, providing only marginal if any top-down control on purple sea urchin.

The red abalone population has not recovered as of 2018, which indicates a similar lack of recovery for the kelp forests. Red abalone density has dropped from 0.2 abalone m⁻² in 2017 to 0.08 abalone m⁻² in 2018 at the Department's Fort Ross index survey site. Density has remained mostly unchanged at the Department's Van Damme survey site (2017 – 0.14 abalone m⁻²; 2018 – 0.16 abalone m⁻²).

Emergency Rule 29.11 Implemented

The default recreational take limit for all marine invertebrates is 35 individuals (Section 29.05, Title 14, California Code of Regulations (CCR)), and is well below levels that would impact current purple urchin population abundances. Commission thus adopted Section 29.11, Title 14, CCR, effective May 10, 2018, as an emergency rule to significantly increase the recreational daily bag limit for purple sea urchin to 20 gallons and exempts the species from any recreational possession limit. The new limits only apply to purple sea urchins taken while skin or SCUBA diving off the coast of Sonoma and Mendocino Counties.

The higher take limit of 20 gallons was adopted to catalyze a growing recreational interest in harvesting purple sea urchins along the northern California coast to reduce destructive grazing pressure in urchin barrens, supporting recovery of the kelp forest ecosystem.

As an emergency rule, Section 29.11, readopted in October 2018, is due to sunset on February 7, 2019. The Commission anticipates that recreational interest in purple sea urchins will increase, and a standard rulemaking is necessary to continue to allow the higher take limit. Furthermore, bull kelp, the dominant kelp in northern California, is an annual species. Any restoration attempt would yield observable results only after it has been conducted for over a year. As such, both the goal of supporting a growing recreational interest and the goal of restoring habitat require the new regulation Section 29.06 for at least the next two or more years.

Department staff has collaborated with other stakeholders in three successful coordinated recreational harvest events in 2018 since the emergency rule was first

adopted. Each restoration event attracted 75-100 divers and collected 60,000-80,000 purple urchins at each two-day event respectively. Conversations with stakeholders suggest that generally 4-6 such events could be held each year.

Option 1: New Take Limit for Humboldt, Mendocino, and Sonoma Counties

Proposed Regulation

This regulatory proposal would add Section 29.06, Title 14, CCR. The new regulation would provide for a daily recreational bag limit of 40 gallons of purple sea urchins while diving off waters of Humboldt, Mendocino and Sonoma counties. The proposal would exempt all recreational possession for recreationally taken purple sea urchin.

Rationale

Adding Section 29.06 through standard rulemaking would ensure that interests in the recreational take of purple sea urchin in northern California continues to develop. The regulations would promote the continued involvement of recreational divers in efforts to restore the severely impacted kelp forest ecosystems in northern California.

The proposed regulatory package is part of a larger strategy of controlling the purple sea urchin population in northern California. It was determined through dives conducted in 2018 that when coordinated in conjunction with other tools, such as incentivizing commercial sea urchin divers to target purple sea urchins, the higher bag limit of 40 gallon will contribute to reduction efforts without adversely affecting the long-term health of the purple sea urchin population.

The original emergency rule applied only to the coasts of Sonoma and Mendocino counties because these two counties constitute the core range of the northern California red abalone fishery and suffered the most bull kelp loss. Observations of abalone body condition during abalone creel surveys (2016 and 2017) as well as recent reports from recreational divers in Humboldt County suggest that purple urchins may be affecting that region as well. The continued deterioration in the north coast has prompted the Department to recommend extending the higher take limit to the coast off Humboldt County.

The proposed regulation retains the condition that only urchins taken while skin or SCUBA diving qualify under the higher limit. This is to ensure that foot traffic does not increase in the intertidal zone, where other marine life are vulnerable to being trampled on. The proposed regulation also retains the exemption from possession limit, facilitating the transportation of a large amount of purple sea urchins as may be harvested during coordinated events.

Option 2: New Take Limit for Del Norte, Humboldt, Mendocino, and Sonoma Counties

Proposed Regulation

This regulatory proposal under this option is the same as Option 1, except that the new recreational bag limit will also be extended to purple sea urchins taken off the coast of Del Norte County.

Rationale

The northward trend of the deteriorating kelp condition suggests that the higher recreational take limit and possession limit exemption may be warranted in Del Norte County as well.

(b) Goals and Benefits of the Regulation:

The proposed regulation would add a recreational bag limit for purple sea urchin and exempts such take from any possession limit so long as the urchins are taken while skin or SCUBA diving in Sonoma, Mendocino, and Humboldt Counties, as well as potentially Del Norte County. The regulation is necessary to both maintain a developing recreational interest in purple sea urchin as well as help reduce grazing pressure in a vulnerable ecosystem.

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

Authority: Sections 200 and 205, Fish and Game Code.

Reference: Sections 200 and 205, Fish and Game Code.

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

(e) Identification of Reports or Documents Supporting Regulation Change:

Fish and Game Commission. (Commission 2017). Initial Statement of Reasons for Regulatory Action to Amend Section 29.15, Title 14, California Code of Regulations, Re: Abalone Regulations.

<http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=161274>

Fish and Game Commission. (Commission 2018). Initial Statement of Reasons for Regulatory Action to Amend Section 29.15, Title 14, California Code of Regulations, Re: Abalone Regulations.

<http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=161271>.

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

April 2018 Commission Meeting, Ventura, CA

August 2018 Commission Meeting, Fortuna, CA

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

Without regulatory change, the current Section 29.11 will eventually sunset. The daily recreational bag limit for purple sea urchin would default back to 35 sea urchins per person per day. The default bag limit would be too low to encourage recreational divers to go to northern California to seek purple sea urchins, and the take of urchins would be too low to support kelp forest recovery.

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 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. Option 1: New Take Limit for Humboldt, Mendocino, and Sonoma Counties, and Option 2: New Take Limit for Del Norte, Humboldt, Mendocino, and Sonoma Counties would both create permanent incentives for more tourists to travel to coastal northern California and help stimulate local economy.

(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:

The Commission does not anticipate any impact on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California because the proposed regulation is not likely to substantially increase or decrease recreational fishing opportunities within California. The proposed regulation, (both Option 1 and Option 2) is expected to increase interests in recreational diving in northern California that previously did not exist, which may provide a small increase in

economic stimulus to local economies.

The Commission anticipates benefits to the health and welfare of California residents (from both Option 1 and Option 2) through the vigorous activity required to pursue purple sea urchin. The Commission does not anticipate any benefits to worker safety because the proposed regulation will not affect existing working conditions. The Commission anticipates some benefit (from both Option 1 or Option 2) to the state's environment through the restoration of kelp forest habitats to foster and support a diverse balance of species.

(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 (for both Option 1 and Option 2).

(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.

VII. Economic Impact Assessment

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

The Commission does not anticipate impacts on the creation or elimination of jobs within the state because the proposed action (Option 1: New Take Limit for Humboldt, Mendocino, and Sonoma Counties, and Option 2: New Take Limit for Del Norte, Humboldt, Mendocino, and Sonoma Counties) is anticipated to provide a partial substitute for the economic stimulus formerly brought by the recreational abalone fishery that has been closed due to low population density counts. Whether the purple sea urchin fishery will attract as many repeat participants as abalone is not known yet, but the purple sea urchin fishery activity is not anticipated to induce substantial, long-term changes in the demand for labor.

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

The Commission does not anticipate any new businesses, or elimination of existing businesses, because the proposed regulation (both Option 1 and

Option 2) is not likely to substantially increase or decrease recreational fishing opportunities within California.

- (c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Commission does not anticipate any effects from this action (both Option 1 and Option 2) to be substantial enough to induce the expansion of businesses currently doing business in the state.

- (d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission anticipates benefits to the health and welfare of California residents (from both Option 1 and Option 2) through the vigorous activity required to pursue purple sea urchin.

- (e) Benefits of the Regulation to Worker Safety:

The Commission does not anticipate any benefits to worker safety because the proposed regulation (both Option 1 and Option 2) does not affect existing working conditions.

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

The Commission anticipates some benefit (from both Option 1 or Option 2) to the state's environment through the restoration of kelp forest habitats to foster and support a diverse balance of species.

- (g) Other Benefits of the Regulation: None.

Informative Digest/Policy Statement Overview

The addition of Section 29.06 increases the recreational take of purple sea urchin to 40 gallons. This is one of several actions taken by the Department that is necessary to protect the historic and valuable ocean habitat on the northern California coast. The recent increase in population of the purple sea urchin has led to significant losses of ocean habitat. Unchecked, the purple sea urchin has decimated kelp beds leading to the decline of abalone and other important marine life dependent on this unique ecosystem.

As an emergency rule, Section 29.11 increased recreational take of purple sea urchin to 20 gallons. This provision is due to sunset on February 7, 2019. In order to maintain recreational interest in purple sea urchins, to the end that will benefit kelp and abalone recovery, a standard rulemaking is necessary to allow a higher take limit.

Furthermore, bull kelp, the dominant kelp in northern California, is an annual species. Any restoration attempt would yield observable results only after it has been conducted for a year or more. As such, both the goal of supporting a growing recreational interest and the goal of restoring habitat require the new regulation 29.06 for at least the next two or more years.

The addition of Section 29.06 extends the higher take limit to Humboldt, Mendocino, Sonoma, and possibly Del Norte counties.

Benefits of the Regulations

The regulation would maintain a developing recreational interest in purple sea urchin as well as help reduce grazing pressure in a vulnerable ecosystem.

Consistency and Compatibility with Existing Regulations

The proposed regulations are consistent with Section 29.05, Title 14, CCR. Commission staff has searched the CCR and found no other regulations that address the recreational take of purple sea urchin and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt regulations necessary to regulate the recreational take of fish, including purple sea urchins (FGC Section 205). No other state agency has the authority to regulate the recreational take of purple sea urchin.

Proposed Regulatory Language

Option 1:

Section 29.06, Title 14, CCR, is added to read:

§29.06. Purple Sea Urchin.

(a) Except as provided in this section, the daily bag limit for purple sea urchin is 35 individuals

(b) The daily bag limit for purple sea urchin is forty (40) gallons when taken while skin or SCUBA diving in ocean waters of the following counties: Humboldt, Mendocino, and Sonoma

(c) There is no possession limit for purple sea urchin

Note: Authority cited: Section 200 and 205, Fish and Game Code. Reference: Section 200 and 205, Fish and Game Code.

Option 2: Adds Del Norte County

Section 29.06, Title 14, CCR, is added to read:

§29.06. Purple Sea Urchin.

(a) Except as provided in this section, the daily bag limit for purple sea urchin is 35 individuals

(b) The daily bag limit for purple sea urchin is forty (40) gallons when taken while skin or SCUBA diving in ocean waters of the following counties: Del Norte, Humboldt, Mendocino, and Sonoma

(c) There is no possession limit for purple sea urchin

Note: Authority cited: Section 200 and 205, Fish and Game Code. Reference: Section 200 and 205, Fish and Game Code.

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 Dept. of Fish and Wildlife
1933 Cliff Drive, Suite 9
Santa Barbara, CA 93109

(Address)

Project Title: Add Section 29.06, Title 14, CCR, Re: Purple Sea Urchin

Project Applicant: N/A

Project Location - Specific:

State water off the coast of Sonoma, Mendocino, and Humboldt Del Norte counties

Project Location - City: N/A

Project Location - County: Multiple

Description of Nature, Purpose and Beneficiaries of Project:

The proposed project would increase the daily take limit of overpopulated purple sea urchin taken while skin or SCUBA diving and explicitly exempts it from any possession limit.

Name of Public Agency Approving Project: California Department of Fish and Wildlife

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: 7 & 8; 14 CCR 15307, 15308

Statutory Exemptions. State code number: _____

Reasons why project is exempt:

Categories 7 and 8 exempt agency actions for the protection of natural resources and the environment, respectively. The proposed project would help restore kelp forests in northern California that have been negatively impacted by urchin overgrazing (See Attachment).

Lead Agency

Contact Person: Melissa Miller-Henson

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: _____ Title: _____

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: _____

February 7, 2019

ATTACHMENT TO NOTICE OF EXEMPTION
Adoption of Higher Recreational Take Limit for Purple Sea Urchin and Exemption
of Purple Sea Urchin from Recreational Possession Limit

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 project on February 6, 2019. On November 13, 2018, the Commission noticed its intent to add Section 29.06 of Title 14 of the California Code of Regulations (“CCR”) to increase the daily recreational take limit of purple sea urchin (*Strongylocentrotus purpuratus*) while skin or SCUBA diving off the coast of Del Norte, Humboldt, Mendocino, and Sonoma Counties.

Categorical Exemptions to Protect Natural Resources and the Environment

In compliance with the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 *et seq.*), the Commission adopted the regulations relying on the categorical exemptions contained in CEQA Guidelines Sections 15307 (Action by Regulatory Agencies for Protection of Natural Resources) and 15308 (Action by Regulatory Agencies for Protection of the Environment). The exemptions apply to agency actions to protect natural resources and the environment, respectively.

The adopted regulation incentivizes recreational divers to pursue purple sea urchins in state waters off the coast of Del Norte, Humboldt, Mendocino, and Sonoma Counties. Over the past several years, the kelp forests in this area has been devastated by unprecedented oceanographic events. As of 2018, less than 10% of the traditional kelp coverage remained off the coast off Sonoma and Mendocino Counties. Poor kelp forest conditions has extended to the coast off Humboldt County by the middle of 2018, and may be impacting kelp forest off Del Norte County. These developments have greatly impacted important natural resources that rely on healthy kelp forests, including fragile red abalone (*Haliotis rufescens*).

One of the factors preventing effective kelp recovery in the region is grazing by purple sea urchin. Sea urchins are generally resilient to food shortage and can survive longer without food, and grazing pressure from purple sea urchins may prevent kelp recovery even as ocean condition rebounds. The proposed regulations would increase recreational take of purple sea urchins and may help with the recovery of fragile kelp forests.

Because these regulations are intended to assist in kelp bed recovery as a natural resource, Commission adoption of these regulations is an activity that is the proper subject of CEQA’s Class 7 and 8 categorical exemption.

Thesell, Harold(David)@FGC

From: Shiao, Anthony@Wildlife
Sent: Friday, January 25, 2019 10:11 AM
To: Randall, Mike@Wildlife; Selmon, Michelle@Wildlife; Thesell, Harold(David)@FGC
Cc: Mason, Tom@Wildlife
Subject: PSU - 29.06 No Change In Response to Comments

Hi Mike, Michelle, David:

No comment regarding the proposed regulatory change to Section 29.06 requires amendment as of January 25, 2019.

Thank you.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**[SAM Section 6601-6616](#)

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON Margaret Duncan margaret.duncan 	EMAIL ADDRESS @wildlife.ca.gov	TELEPHONE NUMBER 916-653-4676
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Section 29.06, Title 14, CCR, Re: Purple Sea Urchin			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

No costs anticipated to comply.

***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***

2. The Fish and Game Commission estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- Below \$10 million
 Between \$10 and \$25 million
 Between \$25 and \$50 million
 Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: 0

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: 0 eliminated: 0Explain: Proposed permanent increased limit on recreational take of purple sea urchins would not impact businesses.5. Indicate the geographic extent of impacts: Statewide
 Local or regional (List areas): Del Norte, Humboldt, Mendocino, Sonoma counties6. Enter the number of jobs created: 0 and eliminated: 0

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? YES NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**[SAM Section 6601-6616](#)

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 0
- a. Initial costs for a small business: \$ N/A Annual ongoing costs: \$ N/A Years: _____
- b. Initial costs for a typical business: \$ N/A Annual ongoing costs: \$ N/A Years: _____
- c. Initial costs for an individual: \$ 0 Annual ongoing costs: \$ 0 Years: 1
- d. Describe other economic costs that may occur: Proposed increase in bag limit for recreational purple sea urchin take affects
only individuals with no change in compliance costs and no commercial uses allowed.
2. If multiple industries are impacted, enter the share of total costs for each industry: N/A
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ N/A
4. Will this regulation directly impact housing costs? YES NO
If YES, enter the annual dollar cost per housing unit: \$ _____
Number of units: _____
5. Are there comparable Federal regulations? YES NO
Explain the need for State regulation given the existence or absence of Federal regulations: Purple sea urchins are within state waters
Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents may benefit from health and welfare of California residents, worker safety and the State's environment: _____
the vigorous exercise required to pursue purple sea urchin. Worker safety is not affected by the proposed action. Benefits to the State's environment are anticipated through the restoration of kelp forest habitats to foster and support a diverse balance of species.
2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority?
Explain: FGC code section 200 provides the "Commission's Power To Regulate Taking of Fish & Game"
3. What are the total statewide benefits from this regulation over its lifetime? \$ potential habitat restoration
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: N/A

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: 1) No change alternative would result in return to a lower (35 purple sea urchin) bag limit (after the sunset of the emergency regulation that had increased the bag limit to 20 gallons).

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**[SAM Section 6601-6616](#)

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ * Cost: \$ 0**

Alternative 1: Benefit: \$ * Cost: \$ 0

Alternative 2: Benefit: \$ N/A Cost: \$ N/A

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: *Difficult to monetize benefits of possible habitat restoration likely to be influenced by unknown env. factors. **No cost impacts necessarily incurred for reasonable compliance.4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? YES NOExplain: The proposed regulation specifies increased 40 gallon take by skin or SCUBA diving, while shore take adheres to the existing 35-urchin bag limit to avoid damage to tidepool habitats that could result from an increased bag limit.**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? YES NO***If YES, complete E2. and E3
If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: Alternative 2: *(Attach additional pages for other alternatives)*

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ Cost-effectiveness ratio: \$ Alternative 1: Total Cost \$ Cost-effectiveness ratio: \$ Alternative 2: Total Cost \$ Cost-effectiveness ratio: \$

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

 YES NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: The incentive for innovation in products, materials or processes: The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency:

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**[SAM Section 6601-6616](#)

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- a. Implements the Federal mandate contained in _____

- b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

3. Annual Savings. (approximate)

\$ _____

4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

5. No fiscal impact exists. This regulation does not affect any local entity or program.

6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)

B. FISCAL EFFECT ON STATE GOVERNMENT *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:

a. Absorb these additional costs within their existing budgets and resources.

b. Increase the currently authorized budget level for the _____ Fiscal Year

2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any State agency or program.

4. Other. Explain _____

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DATE

 original on file, signed 11/13/2018

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

DATE

 original on file, signed 11/13/2018

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



FGC

From: Robert Soroka
Sent: Saturday, December 22, 2018 4:05 PM
To: FGC
Subject: Abalone, Sea Urchin

Gentlemen,

We need to spread the word about organized urchin eradication efforts, and there needs to be more of them.
Your help is requested.

Also, a constructive idea would be to open commercial urchin sales to sport divers.

Please consider.

Robert Soroka

FGC

From: Brandi Easter
Sent: Friday, January 11, 2019 12:58 PM
To: FGC
Cc: Ashcraft, Susan@FGC; Shuman, Craig@Wildlife; Mastrup, Sonke@Wildlife; Brian Tissot; Sean F. Craig; Tristin McHugh
Subject: Purple Urchin regulatory language

January 11, 2019

RE: §29.06. Purple Sea Urchin; Option 1 Proposed Regulatory Language - support

President Sklar and Commissioners,

The previous emergency action to increase recreational daily bag limit of purple urchin from 35 individual to 20-gallon volume in Sonoma and Mendocino Counties has been very instrumental with coordinated events by the Watermans Alliance in collaboration with the recreational divers, CDFW and commercial divers to remove purple urchins in targeted areas historically known to hold thick kelp beds. To my understanding, there are no urchin barrens in Humboldt Co waters however there have been several sightings of increased number of purple urchins. These sightings have generated some good dialogue and awareness with local stakeholders, biologists and Reef Check California.

I appreciate the inclusion of Humboldt in the proposed rule making as a precautionary approach – a regulatory placeholder if you will – if urchin barrens do become an issue. It insures immediacy for a coordinated event or events, again, if urchin barrens become an issue in Humboldt County waters. Currently, I do not see the need to include Del Norte County.

I support the proposed regulation language to increase the recreational daily bag limit of purple urchins to 40 gallons by breath hold and SCUBA diving in ocean waters, retaining the recreational 35-individual take in the intertidal zones and retaining the exemption from possession limit which aides in transportation of large quantities harvested at purple urchin removal events for Sonoma, Mendocino and Humboldt Counties.

I look forward to the day this regulation is no longer needed.

Thank you for your consideration,

Brandi Easter

Humboldt County recreational diver & Reef Check California diver

CC Dr. Craig Shuman
Sonke Mastrup
Dr. Brian Tissot
Dr. Sean Craig
Tristin McHugh