

STATE OF CALIFORNIA

FISH AND GAME COMMISSION

FINAL 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. Date of Final Statement of Reasons: February 11, 2019

III. 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 6, 2019
Location: Sacramento, CA

IV. Update:

At its February 6, 2019 meeting, the California Fish and Game Commission (Commission) adopted the regulations as proposed under Option 1. Option 1 institutes a 40-gallon daily recreational take limit of purple sea urchin taken while diving in ocean waters off the coast of Sonoma, Mendocino, and Humboldt counties. Recreationally taken purple sea urchins are also exempt from possession limit generally. There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action under Option 1.

V. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

All written and verbal comments received by the Commission on the proposed regulatory changes are summarized and responded to the attached Table 1 – Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Action and Reasons for Rejecting Those Considerations.

VI. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:

California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VII. Location of Department Files:

Department of Fish and Wildlife
1416 Ninth Street
Sacramento, California 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

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:

The current Section 29.11 has sunset. Without the regulatory change the daily recreational bag limit for purple sea urchin will remain 35 sea urchins per person per day. The default bag limit is 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.

(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 adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

IX. 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 determinations relative to the required statutory categories have been made:

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The action would create a permanent incentive 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. The proposed regulation is expected to increase interests in recreational diving in northern California that previously did not exist. The action is expected to contribute to local economies.

(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: 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

Updated 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 5, 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 §29.06 extends the higher take limit to Sonoma, Mendocino, Humboldt 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 § 205). No other state agency has the authority to regulate the recreational take of purple sea urchin.

UPDATE:

At its February 6, 2019 meeting, the Commission adopted the proposed regulations under Option 1, not including Del Norte County, as described in the November 5, 2018, Initial Statement of Reasons. The adopted regulation increases the daily recreational bag limit of purple sea urchin to 40 gallons for divers diving off the coast of Humboldt, Mendocino, and Sonoma counties. The regulation also exempts purple sea urchins from the possession limit generally.

Minor typographical changes were made to the Regulatory Language in subsections (a), (b), and (c) with periods added to the end of each sentence to provide clarity.