

## Staff Summary for February 12-13, 2025

**21. Commercial Harvest of Kelp, Including Sea Palm, and Other Aquatic Plants****Today's Item**Information Action 

Consider authorizing publication of notice of intent to amend regulations for commercial harvest of sea palm, and kelp and other aquatic plants harvest reporting and references.

**Summary of Previous/Future Actions**

- Commission referred sea palm review to Marine Resources Committee (MRC) June 16-17, 2021
- MRC and Tribal Committee (TC) discussed status of sea palm and harvest March 24, 2022; MRC and April 19, 2022; TC
- Commission approved MRC recommendation to prioritize sea palm commercial harvest before other edible seaweed species April 20-21, 2022
- MRC vetting and recommendation November 6-7, 2024; MRC
- **Today's notice hearing** **February 12-13, 2025**
- Discussion and adoption hearing April 16-17, 2025

**Background**

Kelp and edible seaweed are managed with other marine algae through the Department's kelp management program under regulations adopted by the Commission. The Department and Commission have been working to revise antiquated commercial kelp and seaweed regulations for over ten years through a multi-phase approach, to improve management and enforceability. There have been two rulemakings to date (2013 and 2022).

In 2022, the Commission supported an MRC recommendation to prioritize review of sea palm (*Postelsia palmaeformis*), which is classified as a type of edible seaweed, following observed declines in the species in some areas of the coast. Following two years of Department review, in November 2024 the Department presented its findings and management recommendations to MRC (see Exhibit 1 for background details). In December 2024, MRC recommended the Commission move forward with a rulemaking to commence in February 2025 (this meeting).

**Current Regulations**

The Department requests changes to commercial kelp and aquatic plant harvesting regulations (including edible seaweed), as described in the draft initial statement of reasons (ISOR) and draft proposed regulatory language (exhibits 3 through 5).

Current sea palm regulations provide that anyone with a commercial kelp harvesting license may harvest sea palm by cutting and picking attached individuals and taking drift or loose individuals. However, current regulations do not include defined, specific, allowable harvest methods or set harvest limits or seasonal closures for sea palm commercial harvest.

Additionally, current kelp and aquatic plant regulations incorporate by reference the Kelp Harvesting License and Drying Application (DFW 658), the Commercial Kelp Harvester's

## Staff Summary for February 12-13, 2025

Monthly Report (DFW 113), and the Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report (DFW 113A) forms.

### **Proposed Regulation Changes**

1. Define sea palm harvest methods, to:
  - specify the allowable sea palm harvest cut location, determined by locating the grooved area on the blade and cutting the blade at least one and one-half inches away toward the terminal tip of the blade; and
  - prohibit harvest of detached, drift, or beached sea palm.
2. Restrict incidental take of marine invertebrates when harvesting sea palm, to:
  - prohibit the incidental take and possession of marine invertebrates greater than or equal to one inch in width; and
  - require that harvested sea palm be inspected prior to transport for marine invertebrates less than one inch in width and, unless otherwise prohibited, allow the incidental take of marine invertebrates less than one inch in width if effort is made to return them near their habitat of origin.
3. Prohibit sea palm harvest from Pigeon Point to the United States-Mexico border.
4. Revise forms DFW 113 and DFW 113A monthly reports to:
  - require that, for sea palm harvest, Form DFW 113A monthly reports include the central latitude/longitude coordinates where sea palm was harvested; and
  - require that, for all marine algae harvest, forms DFW 113 and DFW 113A monthly reports include the day of harvest, specify if take is "drift" or "beached" (except as prohibited for sea palm), and include additional information on harvest effort.
5. Remove from Title 14 the incorporation by reference of Form 658 and, instead, list the required form fields in text format.
6. Make other edits to the regulations and forms for clarity and consistency.

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

#### **Recommendation**

**Commission staff:** Authorize staff to publish notice of the Commission's intent to amend regulations for commercial harvest of sea palm, and kelp and other aquatic plants harvest reporting and references, as recommended by the Department, and described in the draft ISOR and draft proposed regulatory language (exhibits 3 through 5).

**Committee:** Advance to rulemaking the proposed regulatory changes as recommended by the Department and request that the Department continue exploring density trends in Humboldt and Sonoma counties by reaching out to harvesters in the area (approved by Commission in December).

**Department:** Authorize staff to publish notice of the Commission's intent to amend regulations for commercial harvest of sea palm, and kelp and other aquatic plants harvest reporting and

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references, as described in the draft ISOR and draft proposed regulatory language (exhibits 3 through 5).

**Exhibits**

1. [Staff summary from Agenda Item 7, November 6-7, 2024 MRC meeting \(for background purposes only\)](#)
2. [Department memo, received January 24, 2025](#)
3. [Draft ISOR, dated January 30, 2025](#)
4. [Draft proposed regulatory language](#)
5. [Draft proposed changes to forms DFW 113, 113A and 658](#)
6. [Draft economic and fiscal impact statement \(STD 399\) and addendum](#)
7. [Department presentation](#)

**Motion**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission authorizes publication of a notice of its intent to amend sections 165 and 705.1 and forms DFW 658, 113 and 113A related to the commercial harvest of sea palm, and kelp and other aquatic plants harvest reporting and references.

**Committee Staff Summary for November 6-7, 2024 MRC**  
*For Background Purposes Only*

## 7. Commercial Harvest of Marine Algae Sea Palm (*Postelsia*)

### Today's Item

Information

Action

Receive and discuss Department-recommended regulations governing commercial harvest of sea palm; develop potential committee recommendation.

### Summary of Previous/Future Actions

- MRC received updates on commercial kelp and algae harvest management review 2015-2019; MRC
- Department presented initial draft regulations; MRC recommended additional outreach March 2020; MRC
- Department proposed formation of stakeholder working groups, starting with bull kelp, followed by edible seaweeds; MRC recommendation, with Commission approval in December 2020 November 2020; MRC
- Commission referred sea palm review to MRC June 2021
- Received Department overview of sea palm and recommendation to prioritize management review; MRC recommendation March 2022; MRC
- Department provided TC an update on sea palm review April 2022; TC
- Commission approved MRC recommendation to prioritize review of sea palm commercial harvest before other edible species April 2022
- TC received Department updates related to kelp and edible algae management April 2022, August 2022, and April 2023; TC
- MRC received Department update on development of proposed changes to commercial harvest of marine algae sea palm July 17-18, 2024; MRC and August 13, 2024; TC

### Background

Kelp and edible seaweed are managed with other marine algae through the Department's kelp management program. The Department and Commission have been working to revise antiquated commercial kelp regulations over more than ten years through a three-phase approach, to improve management and enforceability. Phase 1 was completed in 2013 and implemented in 2014; Phase 2 has been underway since late 2016.

Phase 2 is focused on both regulatory clean-up and broader management and regulation overhaul in consultation with commercial kelp and algae (seaweed) harvesters. Originally planned for completion in 2020, the Commission subsequently approved continuing Phase 2 while the Department worked more directly with growers and other interested stakeholders on proposed changes.

**Committee Staff Summary for November 6-7, 2024 MRC**  
*For Background Purposes Only*

In November 2020, the Department proposed to form two separate working groups — one for bull kelp harvest and one for edible seaweeds harvest — to collaboratively develop regulation change proposals, including regional approaches, harvest methods, and data needs. MRC recommended and the Commission prioritized bull kelp harvest review first, in light of bull kelp condition and recovery needs on the north coast. The commercial kelp harvest review and associated rulemaking effort was completed in 2021. The next part to review regulations for commercial harvest of all edible seaweed species, including sea palm, was initiated in 2022.

***Reviewing Commercial Harvest of Sea Palm (Postelsia)***

During the Commission’s May 2021 meeting, a commenter expressed concern about long-term monitoring data sets documenting declines in abundance of *Postelsia*, a marine algal species known as sea palm that is commercially harvested as edible seaweed. The commenter advocated for immediate focus on protecting sea palm. In July 2021, the InterTribal Sinkyone Wilderness Council — a consortium of ten federally-recognized tribes in northern California — proposed a 10-year moratorium on commercial harvest of bull kelp, giant kelp, and sea palm.

The Commission referred the topic of commercial harvest of sea palm to the March 2022 MRC meeting, to consider whether to prioritize sea palm harvest review ahead of the review of other edible seaweed species. At the March meeting, the Department presented an overview of sea palm distribution and harvest. In light of public, tribal, and Department reporting, MRC recommended prioritizing commercial sea palm harvest review before other edible species; in April 2022, the Commission approved the recommendation.

***Update***

The Department has evaluated data, researcher and harvester information, and management needs for sea palm since its review was prioritized. Today, the Department will present an overview of sea palm harvest over 20 years and information about sea palm density across the state (Exhibit 1); it will also present proposed changes to both sea palm regulations and all marine algae for MRC consideration and potential recommendation. Proposed sea palm regulation changes are to: (1) define allowable harvest methods; (2) require central latitude/longitude coordinates of harvest location; and (3) prohibit harvest in the southern portion of the species’ range (south of Pigeon Point, San Mateo County). Additionally, the Department will propose amendments to regulations for all marine algae, to require that harvesters: (1) identify the day of harvest in harvest reporting; (2) specify if take is “drift” or “beached”; (3) include additional information on harvest effort (details will be shared during the meeting); and (4) clarify language and update outdated references.

The Department will also highlight its outreach to and engagement with sea palm harvesters, researchers, and the public when exploring management options. Department staff provided updates at Commission Tribal Committee meetings in 2022, 2023 and 2024, sent tribal notification letters in the fall of 2024, and reached out directly to tribes and tribal councils that previously expressed interest. To date, the Department has not received feedback from any tribes.

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

**Committee Staff Summary for November 6-7, 2024 MRC**  
*For Background Purposes Only*

### **Recommendation**

**Commission staff:** Advance for consideration in a rulemaking the proposed changes to commercial harvest of sea palm on a timeline to commence with authorizing public notice in February, as recommended by the Department.

**Department:** Advance to rulemaking for public notice in February 2025 proposed regulation changes for commercial sea palm harvest to: (1) define allowable harvest methods; (2) require central latitude/longitude coordinates of harvest location; and (3) prohibit harvest in the southern portion of its range (south of Pigeon Point, San Mateo County). In the same rulemaking, include regulation changes for commercial harvest of all marine algae to: (1) identify the day of harvest in harvest reporting; (2) specify if take is “drift” or “beached”; (3) include additional information on harvest effort, as described today; and (4) clarify language and update outdated references.

### **Exhibits**

1. Department presentation

### **Committee Direction/Recommendation**

The Marine Resources Committee recommends that the Commission advance to rulemaking the proposed regulation changes as recommended by the Department, and schedule the rulemaking to commence with authorizing public notice in February 2025.

# Memorandum

**Date:** January 16, 2025

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

**From:** Charlton H. Bonham  
Director

**Subject:** **Submission of Initial Statement of Reasons for February 12-13, 2025 Fish and Game Commission Meeting to Amend Sections 165 and 705.1, Title 14, California Code of Regulations, re: Commercial Harvest of Kelp and Other Aquatic Plants; Commercial Kelp Harvesting and Drying Application, Monthly Harvest Reports**

Please find attached the Initial Statement of Reasons to amend sections 165 and 705.1, and forms DFW 658, DFW 113, and DFW 113A, Title 14, California Code of Regulations. The proposed amendment aims to mandate allowable commercial harvest methods for the marine alga sea palm (*Postelsia palmaeformis*), close sea palm harvest from Pigeon Point, San Mateo County south to the United States-Mexico border, require central latitude/longitude coordinates for sea palm harvest, and restrict incidental take of marine invertebrates.

The project will also provide clarifying edits and reference updates to the Kelp Harvesting License and Drying Application (DFW 658), remove DFW 658 from Title 14 incorporation by reference, and instead list those DFW 658 form fields in Section 705.1, which will negate the need for annual regulation updates to the application form. Additionally, the project will provide updates to the Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report (DFW 113A) and the Commercial Kelp Harvester's Monthly Report (DFW 113) to include harvest reporting changes for commercial harvest of all marine algae to identify the day of harvest in harvest reporting, specify if take is "drift" or "beached", include additional information on harvest effort, and clarify language and update outdated references in the license application, reports, and sections 165 and 705.1.

The Department recommends that the new regulations become effective January 1, 2026, with the exception of regulations in subsection 705.1(a) regarding the application form and fee, which the Department requests to be effective upon filing with the Secretary of State to allow for immediate use since the current application form and fee pertain to the 2023 license year.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Marine Regional Manager at [R7RegionalMgr@wildlife.ca.gov](mailto:R7RegionalMgr@wildlife.ca.gov). The notice should identify the Department point of contact for this regulation as Environmental Scientist Rebecca Flores Miller, who can be reached at [kelp@wildlife@ca.gov](mailto:kelp@wildlife@ca.gov).

Melissa Miller-Henson, Executive Director  
Fish and Game Commission  
January 16, 2024  
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State of California  
Fish and Game Commission  
Initial Statement of Reasons for Regulatory Action

Amend Sections 165 and 705.1  
Title 14, California Code of Regulations  
Re: Commercial Harvest of Kelp and Other Aquatic Plants; Commercial Kelp Harvesting and Drying  
Application, Monthly Harvest Reports

I. Date of Initial Statement of Reasons: January 30, 2025

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing:

Date: February 12-13, 2025

Location: Sacramento

(b) Discussion & Adoption Hearing:

Date: April 16-17, 2025

Location: Sacramento

III. Description of Regulatory Action

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

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR).

**Background**

Sea palm (*Postelsia palmaeformis*) is an annual kelp marine alga that is managed in Section 165, Commercial Harvesting of Kelp and Other Aquatic Plants, within subsection (e) marine plants harvested as human food and classified as edible seaweed.

Sea palm lives in the upper-mid intertidal zone and is exposed to heavy wave action. The species consists of a holdfast which attaches the individual to its substrate, a long stipe, and branches with blades that are located on top of the individual. Reproductive spores develop on the blades in late spring to early summer, which are released from the blades during low tide resulting in a limited dispersal of one to five meters. Sea palm is commercially harvested for use as human food. Figure 1 depicts reported statewide commercial sea palm harvest during 2004 through 2023. The majority of sea palm harvested on an annual basis is north of San Francisco, including 97 percent of statewide take within Mendocino County. Since 2020, commercial sea palm harvest has declined statewide, and the number of commercial harvesters has also declined since 2021.

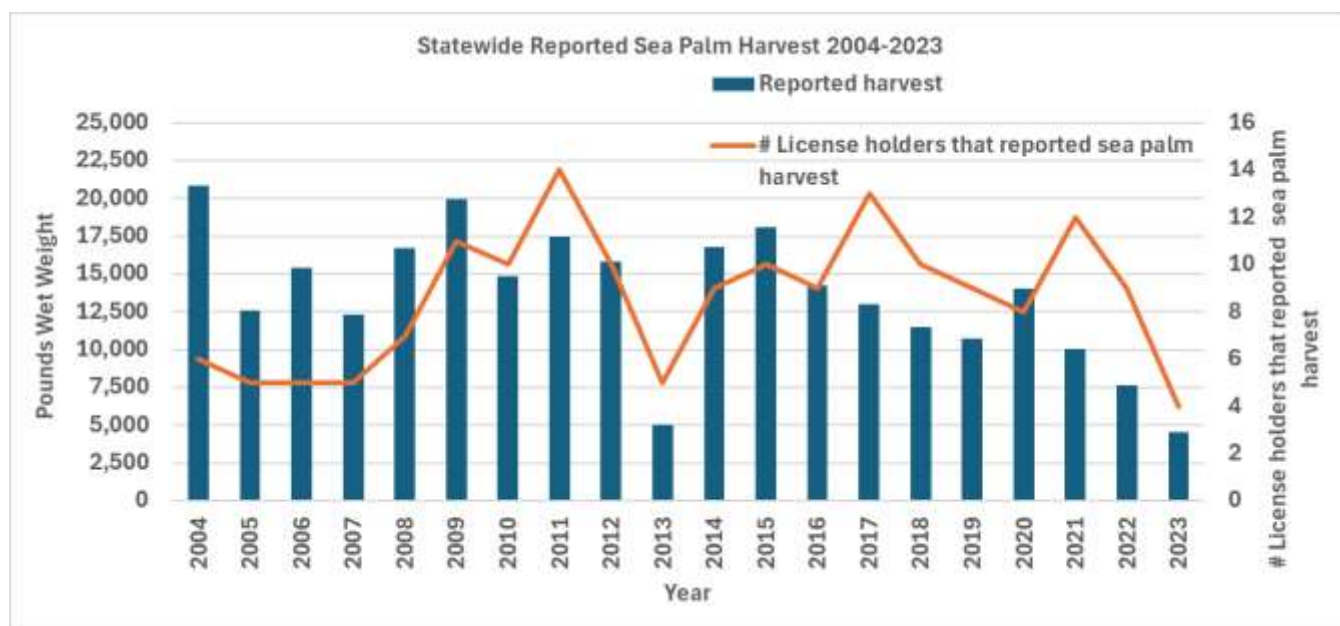


Figure 1. Annual statewide reported commercial sea palm harvest, 2004-2023. The axis on the left is harvest pounds wet weight as indicated by the bars and right axis depicts the number of harvesters who reported sea palm harvest during the year, as visualized in the line. Years 2013 and 2023 may not be an indication of reduced harvest efforts, but instead a lack of submitted harvest reports for these years in particular. Data source: Submitted California Department of Fish and Wildlife Edible Seaweed/Agarweed Harvester's Monthly Reports.

Sea palm can be susceptible to overharvest due to its morphology, limited spore dispersal, annual life cycle, and existing allowable harvest methods which allow cutting and picking of attached individuals and taking of drift and loose individuals. However, research suggests specific harvest methods may allow for blade regrowth and may help mitigate potential overharvest concerns.

Additionally, there is concern for the species based on long-term fishery-independent data collected by the Multi-Agency Rocky Intertidal Network (MARINe). MARINe is a partnership of universities, agencies, and private groups which conduct long-term monitoring of rocky intertidal ecosystems on the United States west coast. Although not all sea palm populations are monitored statewide and not all MARINe sea palm monitoring sites are monitored annually, the MARINe dataset is a robust tool to detect changes over time for the species monitored and is the best available fishery-independent data source for sea palm in California that the California Department of Fish and Wildlife (Department) is aware of. The sea palm long-term monitoring sites were selected because they supported high densities of sea palm. The eight MARINe monitoring sites in Figure 2 were chosen because they have data before and after the Northeast Pacific Marine Heatwave (MHW) that began in mid-2014 (through 2016).

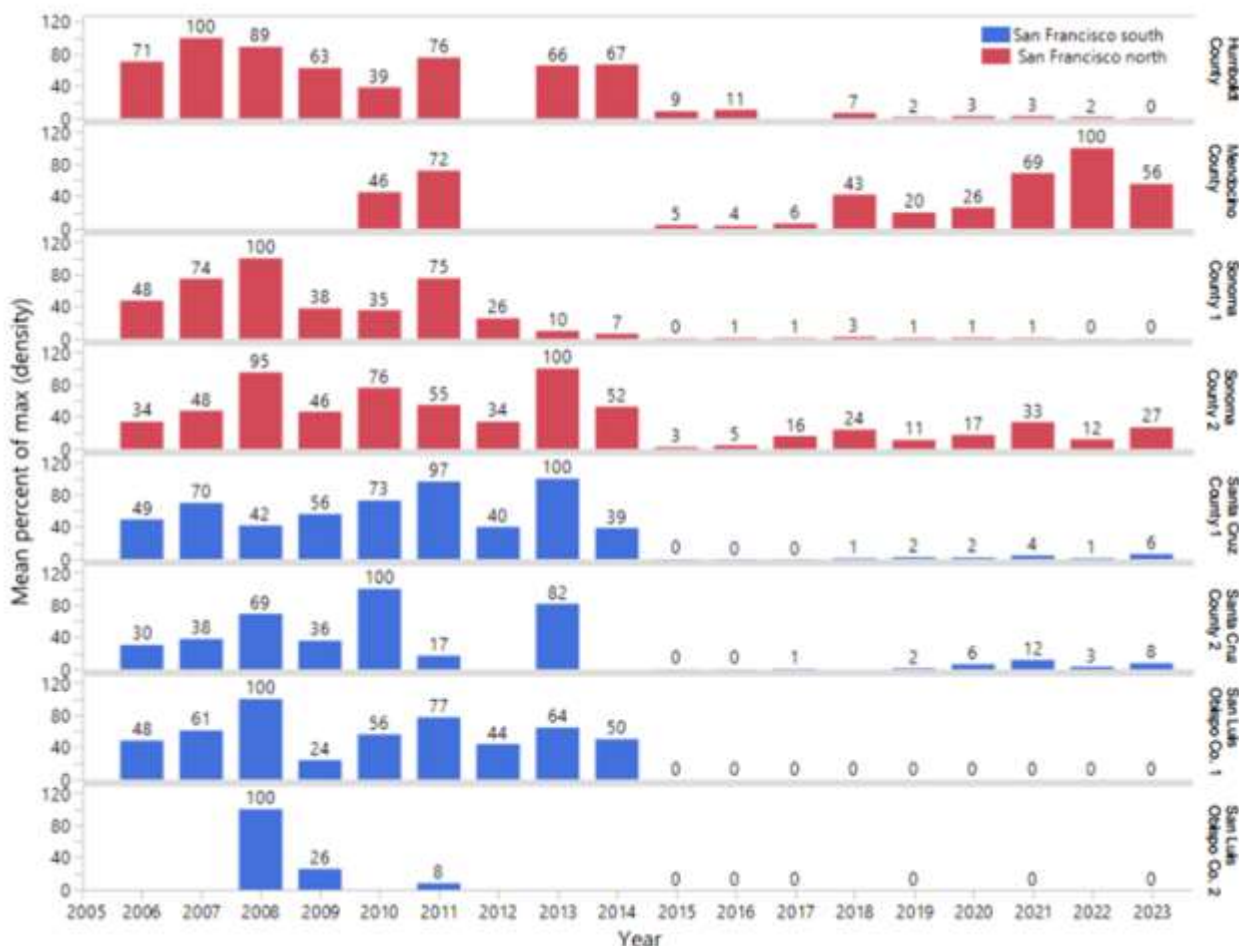


Figure 2. Multi-Agency Rocky Intertidal Network annual long-term sea palm monitoring at eight sites within the specified counties during the 18-year period between 2006 and 2023. The graphs are in descending order from north to south with the top four graphs representing sites north of San Francisco depicted in red and the lower four graphs representing sites south of San Francisco depicted in blue. The left axis is the mean percent of maximum density at the site as represented in the bars each year, with the corresponding percentage above each bar. Years without an associated number indicate the site was not monitored for a particular year. Zeros indicate no sea palm were at the monitoring site for the year. The right axis indicates a specific monitoring site in the county described. Figure source: Multi-Agency Rocky Intertidal Network.

MARINE monitoring data depicts a drop in sea palm density after 2014 at the annually monitored sites, with the most loss in its southern range, which coincides with the Northeast Pacific MHW that began in mid-2014. Additionally, MARINE monitoring shows slow recovery at most sites, especially in its southern range and a lack of recovery at some sites. Researchers have determined that sea palm loss is primarily due to the Northeast Pacific MHW, similar to the declines that have been documented in bull kelp along the north coast. Additionally, researchers at MARINE suspect sea palm’s slow recovery at some sites may be partially due to an abundance of California mussels (*Mytilus californianus*) that outcompete for space.

Sea palm's historic range is from Hope Island at the northern end of Vancouver Island, British Columbia, south to the Morro Bay area in central California’s San Luis Obispo County. However, sea palm’s southern range has shifted north since 1984 with the most recent shift north during the 2014-2016 Northeast Pacific MHW to southern Big Sur in

Monterey County based on MARINe long-term monitoring sites and personal communication with Dr. Pete Raimondi, Principal Investigator for MARINe.

## Current Regulations

The current regulations in Section 165 describe general licensing provisions for the commercial harvest of kelp and other aquatic plants. Although Section 165 provides regulations for kelp and other aquatic plants overall, it also contains subsections which provide more nuanced regulations depending on the species harvested and/or use of the harvest. Subsection (e) provides regulations pertaining to species harvested for human food and classified as edible seaweed including regulations specific to bull kelp harvest for human consumption. Sea palm is not specifically listed in current regulation but is an aquatic plant classified as edible seaweed and thus subject to the harvest regulations in subsection 165(e). Current allowable harvest methods for sea palm and other edible seaweed species include cutting and picking attached individuals and taking drift or loose individuals. All harvested individuals must be processed. There are no limits on the number of commercial Kelp Harvesting Licenses sold, and no harvest limits or seasonal closures for sea palm.

The current regulations in Section 705.1 list the permit fee and incorporate by reference the 2023 Kelp Harvesting License and Drying Application (DFW 658), the Commercial Kelp Harvester's Monthly Report (DFW 113), Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report (DFW 113A) and Release of Property (DFW 1108) forms.

## Overview of Proposed Regulatory Changes

The Department has been gathering information on harvest considerations and compiling monitoring data, including conducting outreach to researchers and communications and harvest site visits to observe and learn from industry members. Most recently, in 2022 the Department accompanied three different commercial harvesters in the intertidal zone on separate occasions, to observe and learn about their sea palm harvest methods. Additionally, on October 16, 2024, the Department hosted a focused meeting with sea palm harvesters to discuss the available data and anticipated proposed regulatory changes, and to receive their feedback and recommendations. The Department largely received support for the proposed regulatory changes from the commercial harvest industry.

The proposed regulatory changes pertaining to partial range closure and blade cutting methods are the result of long-term monitoring and published literature. Specifically, Department staff have reviewed the sea palm [MARINe](#) long-term monitoring data and have had frequent discussions with MARINe's Principal Investigator to learn more about the monitoring data, concerns for the species, and research needs. Discussions have also occurred with the lead author of a [peer-reviewed paper](#) describing a partial blade cut approach to harvest that may allow for blade regrowth and may help mitigate potential overharvest concerns (Thompson et al. 2010). Discussions have also included the need for additional research on harvest methodologies.

Further outreach for the proposed regulatory changes included updates during multiple California Fish and Game Commission (Commission), and Commission Marine Resources Committee (MRC), and Tribal Committee (TC) meetings. Additionally, the Department

submitted a letter to California Tribes notifying them of the consideration to recommend amendments to the commercial harvest regulations and received comments from three tribes who responded that the proposed regulations were not within their Tribe's Traditional Use Area; further consultation is not required unless additional literature is provided or the scope of work changes; support of the Department's management of the commercial harvest of marine algae; and support of Tribal members' ability to harvest for subsistence purposes.

Additionally, Department staff met with two tribes to provide additional information on the proposed regulatory changes and to hear about Tribal concerns.

Based on MARINE long-term monitoring, sea palm researcher discussions, stakeholder conversations, and a lack of existing defined sea palm harvest methods in current regulations, the Department is recommending management changes to the commercial harvest of sea palm which are necessary to improve current and future management of this marine algae.

The proposed regulatory changes for sea palm define specific harvest methods for sea palm that allow for consistency of methods across all harvesters and potentially allows for the sea palm blades to regrow and reproduce. This proposed amendment defines a partial blade cut approach, to cut the blades a minimum of one and a half inches above the meristem (group of cells that divide rapidly to initiate growth). This proposed harvest method memorializes the current harvest methods utilized by the commercial sea palm harvesters and has received consensus support. Additionally, the Department is proposing to restrict the incidental take of marine invertebrate species during sea palm harvest as requested by the Department's Law Enforcement Division (LED).

To better manage the sea palm population, specific harvest location data is needed, and the Department is recommending to improve self-reported harvest log data through adding the requirement of reporting central latitude/longitude coordinates of harvest location.

Finally, the Department is recommending to prohibit sea palm harvest in the southern portion of its range from Pigeon Point in San Mateo County southward to the United States-Mexico border due to concerns around its loss and lack of recovery in that area at the southern end of its range. The Department's LED recommends using Pigeon Point, San Mateo County (37° 11' north latitude) as the northern boundary for closure to aid in enforcement of the regulations, and the Department has confirmed, based on the most recent harvest data, that there are no commercial harvesters who would be impacted by the proposed closure. Between 2004 and 2023, a single kelp harvester reported 0.5 pounds of commercial sea palm harvested between Pigeon Point, San Mateo County to the United States-Mexico border.

Updates to references and clarifying edits to the information required to be provided on the Kelp Harvesting License and Drying Application DFW 658 are recommended. New subsections in 705.1 will allow for the removal of the form (incorporated by reference) from Title 14 and negate the need for annual regulations updates to the form.

In addition to the proposed regulatory changes regarding sea palm, the Department is recommending amendments regarding the self-reported harvest information to improve



Department knowledge of commercial harvest methods and harvest efforts for all marine algae species including:

- Requiring the day of harvest on the Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report (DFW 113A) for all harvested algae as is already required for bull kelp on the Commercial Kelp Harvester's Monthly Report (DFW 113).
- Specifying if take was "drift" or "beached" on both the DFW 113 and DFW 113A harvest reports. For the purposes of the reports, drift will be defined as detached in the water and beached defined as detached on the beach/rocks.
- Requiring additional information of species-specific harvest effort data by specifying the number of individuals harvesting each day and estimated harvest time in minutes on both DFW 113 and DFW 113A. The existing requirement of the number of individuals harvesting for all reported harvest during the report period will be retained.

Finally, the Department recommends clarifying regulatory language by referring individuals interested in marine algae collections for broodstock purposes to the appropriate regulations, updating outdated contact information to purchase a commercial Kelp Harvesting License and to receive copies of informational maps depicting administrative kelp beds and fishing blocks and monthly harvest reports, providing reference to an existing Fish and Game Code (FGC) section describing conditions under which a license can be revoked or not reissued, and other non-substantive changes for clarity and consistency.

Overall, the proposed regulatory changes will provide benefits to the sustainable management of marine algae resources and will provide necessary regulatory clarity and enforceability.

## Specific Proposed Regulatory Changes

### Section 165

**Subsection (a):** Current subsection (a) provides general license provisions. The proposed amendment adds language directing those taking kelp and other aquatic plants for broodstock purposes for aquaculture to Section 243. The proposed amendment is necessary to ensure members of the public understand that the commercial kelp license is not the appropriate permit for take of broodstock.

**Subsection (a)(1)(B):** Current subsection (a)(1)(B) provides regulations pertaining to a Drying Permit for agar-bearing marine plants. The proposed amendment retains the language in this subsection with the exception of replacing "Kelp Harvesting License and Drying Application (DFW 658) incorporated by reference in Section 705.1" with language specifying that the application is provided by the Department. This change is consistent with the proposed amendments to Section 705.1.

**Subsection (a)(1)(C):** Current subsection (a)(1)(C) directs individuals to contact the Department's Seal Beach office for license applications, informational maps depicting administrative kelp beds, informational maps of fishing blocks for edible seaweed and agar-bearing marine algae, and Monthly Harvest Reports. The proposed amendments separate this information into two subsections, revising subsection (a)(1)(C) and adding new

subsection (a)(1)(D). Subsection (a)(1)(C) is amended to refer those applying for a license for the first time to contact the Department's License and Revenue Branch (LRB) by phone or by email and directs individuals to the Department's online sales system to obtain subsequent licenses. Referring individuals to the Department's LRB is necessary as the Department's Seal Beach office no longer has staff to support license sales. Additionally, initial license sales require assistance from LRB staff to set up a harvester identification number and business customer profile Get Outdoors Identification (GO ID) number in the Automated License Data System (ALDS). Once a GO ID number is created in ALDS, licenses can be purchased directly through the Department's online license sales and services system.

**Subsection (a)(1)(D):** Proposed new subsection (a)(1)(D) specifies the Department's commercial kelp webpage as the source for informational maps depicting administrative kelp beds, fishing blocks, and Monthly Harvest Reports. Informational maps of administrative kelp beds, fishing blocks, and Monthly Harvest Reports are currently available for download from the Department's commercial kelp webpage. Referring individuals to the current source of these documents is necessary as the Department's Seal Beach office no longer has staff to print and mail the informational maps and Monthly Harvest Reports, or direct the public to the Department's commercial kelp webpage.

**Subsection (a)(3):** Current subsection (a)(3) specifies applicants for a Kelp Harvesting and Drying Permit shall complete the application and submit the application with the fee to the address listed on the application form, and states that applications may be submitted electronically upon the Department's establishment of an online submission system. The online submission system is currently available for use. Text specifying the "address listed on the application" will be retained and the language regarding online purchases is proposed to be modified from "Pursuant to Section 700.5, license applications and authorized fees may also be submitted electronically upon the department's establishment of an online submission system." to "Pursuant to Section 700.5, license applications and authorized fees may also be submitted electronically using the Automated License and Data System through the department's Online License Sales and Services website by applicants who have a GO ID number and previously acquired a Kelp Harvesting and Drying Permit." This change is necessary to ensure applicants are aware of the system already in place.

**Subsection (a)(4):** Current subsection (a)(4) provides license limitation references to FGC and Title 14 sections. The License Limitation title is retained in (a)(4) and the remaining language is proposed to be retained and moved to new subsection (a)(4)(A).

**Subsection (a)(4)(A):** Proposed new subsection (a)(4)(A) retains the license limitation language and references in existing subsection (a)(4) with the exception of the License Limitation title, and replaces "sections 6650-6680" with "sections 6650 through 6680".

**Subsection (a)(4)(B):** Proposed new subsection (a)(4)(B) refers to FGC Section 6656 which states provisions under which a Kelp Harvesting License may be revoked and reissuance may be prohibited for a period of not more than one year. The proposed subsection summarizes the language of Section 6656 to highlight existing law for the public and to aid in clarity and enforceability of the regulations.

**Subsection (b).** There are no proposed changes to subsection (b), General Harvesting Provisions.

**Subsection (c)(2):** Current subsection (c)(2) specifies allowable harvest methods for giant and bull kelp. The proposed amendment replaces “may not cut attached kelp...” with “shall not cut attached kelp...” This proposed amendment is necessary to clearly state allowable harvest methods for enforceability of the regulations.

**Subsection (c)(9):** Current regulations in subsection (c)(9) specify temporary harvest restrictions and weekly reporting for bull kelp. Non-substantive edits are proposed to remove the form number for the Kelp Harvesting License and Drying Application (subsections (c)(9)(B)1.a. and b.) consistent with amendments to subsection (a)(1)(B) and to correct the URL of the Department’s commercial kelp harvest webpage (subsections (c)(9)(B)2. and 3.).

**Subsection (d).** There are no proposed changes to subsection (d), Harvesting of marine plants of the genera *Gelidium*, *Pterocladia*, *Gracilaria*, *Iridaea*, *Gloiopeltis* or *Gigartina* which are classified as agar-bearing plants.

**Subsection (e)(1)(A):** Current subsection (e)(1)(A) describes allowable harvest methods for edible varieties of marine plants. The proposed amendments specify the allowable harvest methods do not pertain to sea palm and refer to subsection (e)(3)(A) for sea palm harvest methods.

**Subsection (e)(3):** Current subsection (e)(3) is renumbered as subsection (e)(4). The proposed new subsection (e)(3) specifies the current regulatory allowance of sea palm harvest is for human consumption only. This is necessary to maintain the current restriction specified in subsection (e) that the marine alga cannot be harvested for uses other than human consumption.

**Subsection (e)(3)(A):** Proposed new subsection (e)(3)(A) describes allowable and prohibited harvest methods for sea palm. The proposed language specifies that sea palm cannot be cut or harvested anywhere on the plant except as described in the subsection. The proposed new subsection describes allowable harvest cut location as determined by locating the grooved area on the blade and cutting the blade at least one- and one-half inches away towards the terminal tip of the blade. Further, the proposed regulatory language specifies harvesters may not take detached, drift, or beached individuals. Drift is defined as detached individuals floating in the water and beached is defined as detached individuals on the beach or rocks. The proposed harvest methods are necessary to allow for consistency of methods across all harvesters, and in ways that potentially allow for sea palm blades to regrow and reproduce. Restricting take of drift and beached sea palm is necessary to establish regulatory clarity and assists LED with enforceability of the regulations.

**Subsection (e)(3)(B):** Proposed new subsection (e)(3)(B) addresses incidental take of marine invertebrate species and specifies that no marine invertebrates one inch or greater in width shall be taken or possessed while harvesting sea palm. This size limit is necessary to prevent violations of marine invertebrate take regulations and to prevent retention of the species and potential unauthorized or illegal sale. The size limit helps enforcement efforts



by making it clear what constitutes a violation and addresses concerns from the Department's LED.

The proposed regulation recognizes that some invertebrates, particularly isopods, a type of marine crustacean, attach strongly to marine algae and their coloration can blend in with sea palm, leading to unintentional harvest. Isopods, even if larger than one inch in *length*, are generally less than one inch in *width*. The one inch width limit specifically addresses the potential for unintentional incidental take of these isopods while still achieving the broader intention of the subsection.

Further, the proposed regulation permits the incidental take of marine invertebrates less than one inch in width, provided that harvesters make a reasonable effort to return them to their habitat. The proposed language requires sea palm to be inspected for marine invertebrates less than one inch in width prior to transport. Unless take is otherwise prohibited, marine invertebrate species less than one inch in width may be incidentally taken if every effort is made to return them to their habitat of origin upon harvest. The one-inch width limit acknowledges the practical difficulty of completely eliminating the unintentional incidental take of small invertebrates that are otherwise on or within the blades during sea palm harvest. The phrase “unless take is otherwise prohibited” clarifies that existing FGC sections and regulations that prohibit take of a particular invertebrate species shall still apply, regardless of size.

**Subsection (e)(3)(C):** Proposed new subsection (e)(3)(C) describes the southern closure for sea palm: no sea palm may be cut, disturbed, or possessed from the 37° 11' north latitude line at Pigeon Point in San Mateo County southward to the United States-Mexico border. Closure of sea palm harvest in its southern range is necessary due to concerns around sea palm's loss and lack of recovery. The defined Pigeon Point, San Mateo County (37° 11' north latitude) boundary is necessary to aid in enforcement of the regulations and is an easily identifiable location for harvesters to adhere to.

**Subsections (e)(3) through (e)(6):** Current subsections (e)(3) through (e)(6) are renumbered as subsections (e)(4) through (e)(7) with no additional changes.

**Subsections (f) and (g).** There are no proposed changes to subsections (f) and (g), All Other Species of Kelp and reference to the California Department of Public Health regulations, respectively.

## **Section 705.1**

**Subsection (a)(1):** Current subsection (a)(1) references the 2023 Kelp Harvesting License and Drying Application DFW 658 (REV. 01/01/23). The proposed edits remove the specific license year and revision date. Existing language on the form, “It is mandatory to complete all items unless otherwise specified” is proposed for inclusion in subsection (a)(1) with an amendment changing “unless specified as voluntary” to “unless otherwise specified” to further clarify information required on the form as no fields are specified as voluntary. The removal of the license year and revision date and addition of new subsections (a)(1)(A) through (a)(1)(X) will allow for the removal of the form (incorporated by reference) from Title 14 and negate the need of annual regulation updates of the form to adjust the year and the fee amount.

**Subsections (a)(1)(A) through (X):** Proposed new subsections (a)(1)(A) through (X) retain current information data fields specified on the form DFW 658, proposed to be removed from incorporation by reference. The proposed new subsections, specifying the fields of a form to be issued by the Department, are described below:

**Subsection (a)(1)(A):** Proposed new subsection (a)(1)(A) requires the applicant to provide their first name, middle initial and last name.

**Subsection (a)(1)(B):** Proposed new subsection (a)(1)(B) requires the applicant to provide their ALDS Get Outdoors Identification number (Go ID#).

**Subsection (a)(1)(C):** Proposed new subsection (a)(1)(C) provides the opportunity for businesses to provide their business name to obtain the license for their business. If a business name is not provided, the license will be generated using the individual's name. The proposed language in this subsection is modified from the *Business Name* field on the current DFW 658 by adding "(Not required for individuals)" to clarify that, if a business name is not provided, the license will be generated using the individual's name.

**Subsection (a)(1)(D):** Proposed new subsection (a)(1)(D) requires the applicant to provide the name, place and date of incorporation. The proposed language in this subsection is modified from the *Name, Place, and Date of Incorporation* field on the current DFW 658 by adding "if applicable".

**Subsection (a)(1)(E):** Proposed new subsection (a)(1)(E) requires the applicant to provide their Harvester License number, unless it is their first license. The proposed language in this subsection is modified from the *Harvester License #* field on the current DFW 658 by correcting terminology from "application for a permit" to "application for a license".

**Subsection (a)(1)(F):** Proposed new subsection (a)(1)(F) requires the applicant to provide their mailing address, city, state, and zip code.

**Subsection (a)(1)(G):** Proposed new subsection (a)(1)(G) requires the applicant to provide their street address, city, county, state, and zip code.

**Subsection (a)(1)(H):** Proposed new subsection (a)(1)(H) requires the applicant to provide their email address.

**Subsection (a)(1)(I):** Proposed new subsection (a)(1)(I) requires the applicant to provide their daytime telephone number.

**Subsection (a)(1)(J):** Proposed new subsection (a)(1)(J) requires the applicant to provide their business telephone number.

**Subsection (a)(1)(K):** Proposed new subsection (a)(1)(K) requires the applicant to provide their gender and provides options of male, female, or nonbinary.

**Subsection (a)(1)(L):** Proposed new subsection (a)(1)(L) requires the applicant provide their date of birth.

**Subsection (a)(1)(M):** Proposed new subsection (a)(1)(M) requires the applicant to provide their hair color.

**Subsection (a)(1)(N):** Proposed new subsection (a)(1)(N) requires the applicant to provide their eye color.

**Subsection (a)(1)(O):** Proposed new subsection (a)(1)(O) requires the applicant to provide their height.

**Subsection (a)(1)(P):** Proposed new subsection (a)(1)(P) requires the applicant to provide their weight.

**Subsection (a)(1)(Q):** Proposed new subsection (a)(1)(Q) requires the applicant to provide their boat name, if a boat will be used. Or if a kayak will be used, requires the applicant to write “kayak.”

**Subsection (a)(1)(R):** Proposed new subsection (a)(1)(R) requires the applicant to provide the California vessel registration number for the boat used for harvest. The proposed language in this subsection is modified from the *California vessel registration number* field on the current DFW 658 by adding “(except kayak)” since under Department of Motor Vehicle regulations, kayaks are not required to have a registration number.

**Subsection (a)(1)(S):** Proposed new subsection (a)(1)(S) requires the applicant to provide the number of processing plants.

**Subsection (a)(1)(T):** Proposed new subsection (a)(1)(T) requires the applicant to provide the method of harvesting as hand or mechanical.

**Subsection (a)(1)(U):** Proposed new subsection (a)(1)(U) requires the applicant to provide the type(s) of aquatic plant(s) to be harvested as agar, edible seaweed, bull kelp, bull kelp for human consumption, or giant kelp.

**Subsection (a)(1)(V):** Proposed new subsection (a)(1)(V) pertains to drying permits and specifies that the applicant for the drying permit select this option if they choose to dry harvest pursuant to subsection 165(a)(1)(B). Completion of this field is not required if the applicant will not be drying harvest. The proposed language in this subsection is modified from the *drying permit* field on the current DFW 658 by correcting “section” to “subsection”.

**Subsection (a)(1)(W):** Proposed new subsection (a)(1)(W) requires the applicant to check a box to provide their verification that the applicant understands they must obtain a valid license from the Department once per year before the applicant begin harvesting kelp or other aquatic plants. The proposed language in this subsection is modified from the verification section on the current DFW 658 by removing “Seal Beach office” as the Department’s Seal Beach office is no longer staffed for license sales.

**Subsection (a)(1)(X):** Proposed new subsection (a)(1)(X) requires the applicant provide their signature and signature date indicating agreement to abide by all conditions of the Kelp Harvesting License and all laws and regulations of the FGC and the CCR, including FGC Sections 6650 through 6711 and CCR, Title 14, sections 165, 165.5, and 705.1. The applicant’s signature indicates that they are eligible for the Kelp Harvesting License and do not possess a license that is suspended or revoked, nor is there a case pending that would restrict them from obtaining a license. Further, the applicant’s signature certifies that the information provided is true and correct and if it is not, the license issued will be considered

invalid and must be surrendered to the Department and they will be subject to criminal prosecution pursuant to FGC Section 1054. Finally, their signature indicates they understand that, pursuant to FGC Section 6656, the license or permit may be suspended or revoked by the Commission for violations of any law or regulation relating to kelp. The proposed language in this subsection is modified from signature section on the current DFW 658 to clarify language about suspended or revoked licenses and reasons therefor, to add citations to FGC sections 1054 and 6656, and to make non-substantive edits.

**Subsection (a)(2):** Current subsection (a)(2) provides the permit fee for 2023. The proposed changes update the language from “permit” to the more accurate description, “license,” and update the license fee for 2025 to \$187.75 pursuant to FGC Section 713. Existing language is retained that specifies this amount does not include fees specified in subsection 700.4(e). See Attachment 1 for license fee calculations.

**Subsection (b)(1):** Current subsection (b)(1) referencing Commercial Kelp Harvester’s Monthly Report DFW 113 (REV. 01/01/23) is proposed to update the report revision date to REV. 04/17/25 for consistency with the form.

**Subsection (b)(2):** Current subsection (b)(2) referencing Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester’s Monthly Report DFW 113A (REV. 01/01/23) is proposed to update the report revision date to REV. 04/17/25 for consistency with the form.

### **Form DFW 658**

The 2023 Kelp Harvesting License and Drying Application DFW 658 (REV. 01/01/23) is proposed to be removed from Title 14. Instead of incorporating the form by reference, the form fields are listed in proposed subsections 705.1(a)(1)(A) through (X).

### **Form DFW 113**

To improve the Department’s knowledge of giant kelp and bull kelp harvest methods and provide information on kelp harvest effort, the Commercial Kelp Harvester’s Monthly Report DFW 113 (REV. 01/01/23) is proposed to undergo a complete strike and replace with DFW 113 (REV. 04/17/25):

1. The form revision date is proposed to be updated to reflect the date of the revised report form. The proposed 04/17/25 revision date is the date the proposed changes are anticipated to be adopted by the Commission.
2. Further details on the harvest method are proposed with the additional requirement for harvesters to specify if harvest was “drift” or “beached”. Additionally, “drift” is defined as “detached in the water” and “beached” is defined as “detached on the beach/rocks.”
3. The requirement to provide the number of individuals harvesting for the business each day of harvest of giant kelp or bull kelp is proposed to be added.
4. The estimated harvest time in minutes for each day of giant kelp or bull kelp harvest is proposed to be added.
5. An electronic signature ability and an acknowledgment that the electronic signature is legally binding and represents an execution or authentication of the form is proposed. The ability to use an electronic signature and the acknowledgement are required per the

Department's Office of General Counsel and allows for compliance with applicable accessibility laws including California Government Code sections 7405 and 11135, and the Web Content Accessibility Guidelines.

6. Non-substantive revisions are proposed to improve clarity of the proposed revised report and to comply with accessibility guidelines.

### **Form DFW 113A**

To improve the Department's management of sea palm, knowledge of sea palm populations and harvest locations, marine algae harvest methods, and provide information on marine algae harvest effort, the Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report DFW 113A (REV. 01/01/23) is proposed to undergo a complete strike and replace with DFW 113A (REV. 04/17/25):

1. The form revision date is proposed to be updated to reflect the date of the revised report form. The proposed 04/17/25 revision date is the date the proposed changes are anticipated to be adopted by the Commission.
2. The day of harvest for all harvested algae is proposed to be required. This requirement is consistent with the current (REV. 01/01/23) and proposed (REV 04/17/25) Commercial Kelp Harvester's Monthly Report DFW 113.
3. Central latitude/longitude coordinates of sea palm harvest are proposed to be required. Current forms DFW 113 and DFW 113A already require this data for bull kelp harvest.
4. Further details on the harvest method are proposed with the additional requirement for harvesters to specify if harvest was "drift" or "beached". Additionally, "drift" is defined as "detached in the water" and "beached" is defined as "detached on the beach/rocks."
5. The requirement to provide the number of individuals harvesting a specific species for the business for each day of harvest is proposed
6. The estimated harvest time in minutes for each day of harvest for the specified species is proposed.
7. An electronic signature ability and an acknowledgment that the electronic signature is legally binding and represents an execution or authentication of the form is proposed. The ability to use an electronic signature and the acknowledgement are required per the Department's Office of General Counsel and allows for compliance with applicable accessibility laws including California Government Code sections 7405 and 11135, and the Web Content Accessibility Guidelines.
8. Language clarification is proposed in the Log Instructions which reiterate existing reporting requirements to provide harvest reporting information for one species per row. The proposed amendment is necessary to clarify that combining harvest reporting information for multiple species is not permitted.
9. Non-substantive revisions are proposed to improve clarity of the proposed revised report and to comply with accessibility guidelines.



**(b) Goals and Benefits of the Regulation**

Under the Marine Life Management Act (MLMA), it is the policy of the state to ensure the conservation, sustainable use, and restoration of California's living marine resources for the benefit of all citizens of the state (FGC, Section 7050). Furthermore, FGC defines a fishery as one or more populations of marine fish or marine plants that may be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics (FGC, Section 94). Sea palm and other marine algae are therefore considered a fishery.

The proposed specified harvest methods for sea palm allow for consistency of methods across all harvesters and potentially allow for the sea palm blades to regrow and reproduce consistent with the policy of the state that programs for the conservation and management of the marine fishery resources of California shall be established and administered to prevent overfishing, to rebuild depressed stocks, to ensure conservation, to facilitate long-term protection, and, where feasible, restoration of marine fishery habitats, and to achieve the sustainable use of the state's fishery resources [subdivision 7055(b) of the FGC] and that fisheries are conducted sustainably so that long-term health of the resources is not sacrificed in favor of short-term benefits [subdivision 7056(a) of the FGC]. Furthermore, a precautionary approach is warranted to protect and maintain the remaining sea palm due to sea palm's limited dispersal and apparent southern range contraction to southern Big Sur in Monterey County during the 2014-2016 Northeast Pacific MHW based on MARINe long-term monitoring sites and personal communication with Dr. Pete Raimondi, MARINe Principal Investigator.

Requiring sea palm harvest location reporting by central latitude and longitude coordinates will allow the Department to determine the more precise location of sea palm populations targeted for harvest to better inform management decisions for the species.

Finally, the proposed regulations will provide benefits to the sustainable management of marine algae resources and will provide regulatory clarity and enforceability.

**(c) Authority and Reference Sections from Fish and Game Code for Regulation****Section 165**

Authority cited: Sections 6653 and 6653.5, Fish and Game Code.

Reference: Sections 51, 6650, 6651, 6652, 6653, 6653.5, 6654, 6656 and 6680, Fish and Game Code.

**Section 705.1**

Authority cited: Sections 1050, 6651, 6653 and 6653.5, Fish and Game Code.

Reference: Sections 713, 1050, 6650, 6651, 6652, 6653 and 6653.5, Fish and Game Code.

**(d) Specific Technology or Equipment Required by Regulatory Change:**

The requirement to provide the central latitude and longitude locations of sea palm harvest will necessitate the harvester have GPS capability; however, no specific equipment for

such capability is prescribed. The requirement to provide specific harvest locations will improve the Department's ability to determine sea palm populations targeted for harvest on a finer scale than current reporting of fishing block number and the harvester determined nearest prominent landmark.

(e) Identification of Reports or Documents Supporting Regulation Change

Thompson, S. A., Knoll, H., Blanchette, C., Nielsen, K. J., 2010. Population consequences of biomass loss due to commercial collection of the wild seaweed *Postelsia palmaeformis*. Marine Ecology Progress Series 413:17-32.

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

Since 2021 the Department has updated the Commission, MRC and TC. Additionally, the Department has met with members of two Tribes.

- June 16-17, 2021, Commission meeting, Webinar/Teleconference;
- March 24, 2022, MRC meeting, Webinar/Teleconference;
- April 19, 2022, TC meeting, Monterey and Trinidad
- April 20, 2022, Commission meeting, Monterey and Trinidad
- August 16, 2022, TC meeting, Loleta
- July 18, 2024, MRC meeting, Santa Rosa
- August 13, 2024, TC meeting, Fortuna
- October 14, 2024, Notification of upcoming regulatory changes letters mailed to federally recognized Tribes
- October 16, 2024, Sea palm harvesters focus meeting (participants by invitation only), teleconference
- November 7, 2024, MRC meeting, Sacramento

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

On October 16, 2024, the Department hosted a focused meeting with sea palm harvesters to discuss the initially proposed regulations and hear from the industry. During the meeting Department staff presented the proposed recommendation for a partial blade cut approach to sea palm based on published research which suggests specific harvest methods may allow regrowth. Additionally, the Department identified that the current sea palm industry employs a partial blade cut approach for sea palm harvest. The partial blade cut approach proposed by the Department specified using a sharp cutting tool to cut the blades one and one-half inches above the meristem, with the allowable harvest cut location to be determined by locating where the branch meets the blade, then locating the area where the blade widens and cut one- and one-half inches or greater away above the widening.

During the discussion an alternative approach was provided by meeting participants to use the start of the grooved area on the blade instead of the widened area on the blade to determine the location of the cut. The majority of participants agreed this was an appropriate alternative, although one participant initially expressed hesitation to using the grooved area to determine location of the cut. However, during a subsequent separate

conversation, they had no objections to using the widened area of the blade or using the start of the grooved area of the blade. Additionally, participant consensus during the focus meeting maintained the “cutting at least or minimum of one and one-half inches” language.

Department staff also reached out to the lead author of the sea palm harvest study, Dr. Sara Ann Thompson, who agreed the proposed harvest method was appropriate (Thompson et al. 2010). The currently proposed sea palm harvest method specifies measuring one and one-half inches from the start of the grooved area on the blade to determine the location of the harvest cut.

No other 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 no change alternative would leave the existing regulations in place:

- Sea palm harvest will continue to be allowed in a manner that is not specific to the species which may result in impacts to sea palm populations. Additionally, current harvest methods utilized by commercial sea palm harvesters will not be memorialized into regulation.
- Despite reported sea palm loss in its southern range and lack of historic harvest in the southern range, harvest will be allowed to continue without regard to concerns around its loss and lack of recovery in the southern end of its range.
- Collectors for broodstock collection may be unaware that the commercial Kelp Harvesting License is not the appropriate license for broodstock collections.
- Harvesters interested in purchasing a license will continue to be directed to contact the Department’s Seal Beach office, which no longer has staff to support license sales, instead of contacting the Department’s License and Revenue Branch by phone to purchase an initial commercial Kelp Harvesting License and will continue to not be aware that subsequent licenses may be purchased online.
- Harvesters will continue to contact the Department’s Seal Beach office for copies of informational maps and Monthly Harvest Reports instead of referring to the Department’s commercial kelp webpage as the current source for downloadable informational maps and Monthly Harvest Reports.
- Existing FGC referencing conditions in which a commercial Kelp Harvesting License may be revoked or not reissued would not be highlighted in Section 165.
- The terminology “may” will not be replaced with the more clear terminology “shall” in reference to allowable kelp harvest methods which may impact enforceability of the regulations.
- Harvester’s Monthly Reports
  - Kelp Harvester’s Monthly Report DFW 113 (REV. 01/01/23)
    - Improvement of the Department’s knowledge of giant kelp and bull kelp harvest methods and information on kelp harvest effort will not be realized.



- Electronic signatures and the acknowledgement that the electronic signature is legally binding will not be added contrary to accessibility laws including California Government Code sections 7405 and 11135, and the Web Content Accessibility Guidelines.
- Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report DFW 113A (REV. 01/01/23)
  - Improvement of the Department's management of sea palm, knowledge of sea palm populations and harvest locations, marine algae harvest methods, and information on marine algae harvest effort will not be realized.
  - Electronic signatures and the acknowledgement that the electronic signature is legally binding will not be added contrary to accessibility laws including California Government Code sections 7405 and 11135, and the Web Content Accessibility Guidelines.

(c) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business:

No alternatives that would lessen reporting costs and potential purchase of a GPS device impacts on small businesses were identified by or brought to the attention of Commission staff that would have the desired regulatory effect of improving the Department's management of kelp and other aquatic plants.

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. The Commission anticipates that the impact of the proposed regulations on the entirety of commercial kelp and other marine algae harvesting activity is not expected to be sufficient to significantly impact kelp and other marine algae harvesting businesses nor expenditures from kelp and other marine algae harvesting businesses to other businesses within the state. The Commission does not anticipate any impacts on the ability of California businesses to compete with businesses in other states because commercial harvest of wild marine algae is not allowed in nearby states of Oregon and Washington.

- (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 significant impacts on the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in California. Kelp harvesting and other marine algae harvesting businesses may have to adjust to changes in reporting procedures as described in the proposed regulations, but these changes are not expected to be substantial due to the opportunity for commercial kelp and other marine algae harvest being kept open, except for the proposed sea palm area closure south of Pigeon Point from which sea palm is not currently harvested.

The Commission does not anticipate impacts on the health and welfare of California residents or on worker safety.

The Commission anticipates benefits to the state's environment in the sustainable management of sea palm.

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

The Commission anticipates that the annual reporting costs for business from these proposed regulations will be \$29.23 per license holder, as described in the STD 399 Economic and Fiscal Impact Statement addendum. Commercial businesses which harvest sea palm may have to make a one-time purchase, if not already in possession, of a GPS unit (\$200) to comply with the central latitude and longitude reporting requirements of the proposed regulations.

- (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

None. The cumulative effects from the proposed amendments to the regulations for commercial harvest of kelp are anticipated to maintain sufficient opportunity to not induce significant adverse direct or indirect economic impacts to businesses in the state, including to the creation or elimination of jobs. The Department has confirmed via the latest harvest data that there are no commercial harvesters who would be impacted by the proposed closure south of Pigeon Point in San Mateo County. The annual costs associated with the proposed amendments to the reporting requirements are estimated to be \$29.23 for all commercial kelp licensees, while the 12 commercial kelp licensees who reported sea palm

harvest may have to purchase a GPS unit (approximately \$200) if they do not currently have a GPS unit or software, to comply with the proposed new sea palm reporting requirements for central latitude and longitude coordinates of harvest.

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

The cumulative effects of the changes statewide are expected to be neutral to the creation or elimination of businesses in California. No significant changes in total harvesting effort and expenditures from commercial kelp and other marine algae harvesting to other businesses within the state are expected as a direct result of the proposed regulation changes.

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

The cumulative effects of the changes statewide are expected to be neutral to expansion of businesses currently doing business within the state. No significant changes in total harvesting effort and expenditures from commercial kelp and other marine algae harvesting to other businesses within the state are expected as a direct result of the proposed regulation changes.

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

The Commission does not anticipate impacts on the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety

The Commission does not anticipate impacts to worker safety from the proposed regulations.

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

The Commission anticipates benefits to the state's sustainable management of sea palm by specifying harvest methods for sea palm, employing a precautionary approach to remaining sea palm populations in the southern range of the species, requiring specific harvest location information to better manage sea palm populations, improving the Department's knowledge of allowable marine algae harvest methods utilized, providing further clarification of license allowances, and updating outdated references.

## Informative Digest/Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations (CCR).

The current regulations in Section 165 describe general licensing provisions for the commercial harvest of kelp and other aquatic plants. Although Section 165 provides regulations for kelp and other aquatic plants overall, it also contains subsections which provide more nuanced regulations depending on the species harvested and/or use of the harvest. Subsection (e) provides regulations pertaining to species harvested for human food and classified as edible seaweed including regulations specific to bull kelp harvest for human consumption. Sea palm is not specifically listed in current regulation but is an aquatic plant classified as edible seaweed and thus subject to the harvest regulations in subsection 165(e). Current allowable harvest methods for sea palm and other edible seaweed species include cutting and picking attached individuals and taking drift or loose individuals. All harvested individuals must be processed. There are no limits on the number of commercial Kelp Harvesting Licenses sold, and no harvest limits or seasonal closures for sea palm. The current regulations in Section 705.1 list the permit fee and incorporate by reference the 2023 Kelp Harvesting License and Drying Application (DFW 658), the Commercial Kelp Harvester's Monthly Report (DFW 113), Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report (DFW 113A) and Release of Property (DFW 1108) forms.

Sea palm is an annual kelp species that lives in the upper-mid intertidal zone and is exposed to heavy wave action. The individual's blades are located at the top of the individual and contain the reproductive material. Spores are released during low tide resulting in a limited dispersal of one to five meters. The alga is commercially targeted for harvest for use as human food. Sea palm can be susceptible to overharvest due to its morphology, limited spore dispersal, annual life cycle, and existing allowable harvest methods for commercial take. However, research suggests specific harvest methods may allow for blade regrowth and may help mitigate potential overharvest concerns.

Additionally, there is concern for the species based on long-term fishery-independent data that is collected by the Multi-Agency Rocky Intertidal Network (MARINe). MARINe monitoring data depicts a drop in sea palm density after 2014 at their annually monitored sites, with the most loss in its southern range, which coincides with the Northeast Pacific Marine Heatwave (MHW) that began in mid-2014. Additionally, MARINe monitoring shows slow recovery at most sites, especially in its southern range and a lack of recovery at some sites. Researchers have determined that sea palm loss is primarily due to the Northeast Pacific MHW, similar to the declines that have been documented in bull kelp along the north coast. Additionally, researchers at MARINe suspect sea palms slow recovery at some sites may be partially due to an abundance of California mussels (*Mytilus californianus*) that outcompete for space.

Based on MARINe long-term monitoring, sea palm researcher discussions, stakeholder conversations, and a lack of defined sea palm harvest methods in current regulations, the California Department of Fish and Wildlife (Department) is recommending that the California Fish and Game Commission (Commission) adopt management changes to the commercial harvest of sea palm which are necessary to improve current and future management of this marine alga. The Department has determined that specific harvest methods for sea palm are

warranted as the annual species' reproductive material are contained in the blades at the top of the individual and due to its limited dispersal. Furthermore, a precautionary approach is warranted to protect and maintain the remaining sea palm due to sea palm's reported southern range contraction to southern Big Sur in Monterey County during the 2014-2016 MHW. Finally, the proposed regulations will provide benefits to the sustainable management of marine algae resources and will provide regulatory clarity and enforceability.

### Proposed Amendments

The proposed sea palm regulation amendments define specific harvest methods for sea palm that allow for consistency of methods across all harvesters and potentially allows for the sea palm blades to regrow and reproduce. The proposed amendment defines a partial blade cut approach above the meristem as determined by locating the grooved area on the blade and cutting the blade at least one- and one-half inches away towards the terminal tip of the blade. This proposed harvest method memorializes the blade cut approach harvest methods conducted by the commercial sea palm harvesters and has received sea palm harvester consensus support. Additionally, the Department recommends that the Commission prohibit the take of drift and beached sea palm to establish regulatory clarity and assist the Department's Law Enforcement Division (LED) with enforceability of the regulations. Finally, the Department is recommending that the Commission restrict the incidental take of marine invertebrate species as requested by LED. The restriction will prohibit take or possession of marine invertebrate species one inch or greater in width while harvesting sea palm and require that sea palm be inspected for marine invertebrate species less than one inch in width prior to transport. The Department further recommends that unless take is otherwise prohibited, marine invertebrate species less than one inch in width may be incidentally taken if every effort is made to return them near their habitat of origin upon harvest.

The Department recommends prohibiting sea palm harvest in the southern portion of its range from Pigeon Point in San Mateo County southward to the United States-Mexico border due to concerns around the loss and lack of recovery of sea palm. The 37° 11' north latitude line at Pigeon Point in San Mateo County is recommended by LED as the northern boundary for closure to aid in enforcement of the regulations and the Department has confirmed, based on the most recent harvest data, that there are no commercial harvesters who would be impacted by the closure.

The Department also recommends updates to subsection 705.1(a) which will allow for the removal of the Kelp Harvesting License and Drying Application form (incorporated by reference) from Title 14 and negate the need for annual regulation updates to the form. Instead of incorporating the form by reference, the Department recommends that the form fields of a form to be issued by the Department be listed in proposed subsections 705.1(a)(1)(A) through (X). Most fields will remain unchanged, however, minor edits are proposed to some fields and form instructions: Existing language on the form stating, "It is mandatory to complete all items unless otherwise specified is proposed to be amended by changing "unless specified as voluntary" to "unless otherwise specified"; language specifying "(Not required for individuals)" is proposed to be added to the *Business Name* field; changes are proposed to correct terminology from "application for a permit" to "application for a license" in the *Harvester License #* field; language specifying "(if applicable)" is proposed to be added to the *Name*,

*Place, and Date of Incorporation* field on the current DFW 658; language specifying “(except kayak)” is proposed to be added to the *California vessel registration number* field; language specifying the “Seal Beach office” is proposed to be repealed from the verification section; and language in the signature section is proposed to clarify text about suspended or revoked licenses and reasons therefor, to add citations to Fish and Game Code (FGC) sections 1054 and 6656, and to make non-substantive changes.

To improve the Departments’ knowledge of giant kelp and bull kelp harvest methods and provide information on kelp harvest effort, the Commercial Kelp Harvester’s Monthly Report DFW 113 (REV. 01/01/23) is proposed to undergo a complete strike and replace with DFW 113 (REV. 04/17/25). The proposed amendments to the form include new fields to specify whether harvest was drift or beached, and the number of individuals harvesting and the estimated harvest time in minutes for the business each day of harvest of giant kelp or bull kelp. The proposed amendments define drift and beached and add an electronic signature ability and an acknowledgment that the electronic signature is legally binding.

To improve the Department’s management of sea palm, knowledge of sea palm harvest locations, marine algae harvest methods, and provide information on marine algae harvest effort, the Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester’s Monthly Report DFW 113A (REV. 01/01/23) is proposed to undergo a complete strike and replace with DFW 113A (REV. 04/17/25). The proposed amendments to the form include new fields to specify the day of harvest for all harvested algae, the central latitude/longitude coordinates of sea palm harvest, whether harvest was drift or beached, and the number of individuals harvesting and the estimated harvest time in minutes for the business each day of harvest of each species. The proposed amendments define drift and beached, clarify that harvest reporting information should be recorded for one species per row, and add an electronic signature ability and an acknowledgment that the electronic signature is legally binding.

The Department also recommends amending subsection 705.1(a)(2) to update the kelp harvesting license fee for 2025, pursuant to Section 713, FGC.

Finally, the Department recommends clarifying regulatory language by referring individuals interested in marine algae collections for broodstock purposes to the appropriate regulations, updating outdated contact information to purchase a commercial Kelp Harvesting License and to receive copies of informational maps depicting administrative kelp beds and fishing blocks and monthly harvest reports, providing reference to existing FGC section describing conditions in which a license can be revoked or not reissued, a non-substantive clarification of kelp harvest language, and other non-substantive changes for clarity and consistency.

### Benefits of the Regulations

Under the Marine Life Management Act (MLMA), it is the policy of the state to ensure the conservation, sustainable use, and restoration of California’s living marine resources for the benefit of all citizens of the state (FGC, Section 7050). Sea palm and other marine algae, considered a fishery under FGC Section 94, are subject to the policy of the state that mandates programs for the conservation and management of the marine fishery resources of California shall be established and administered to prevent overfishing, to rebuild depressed stocks, to ensure conservation, to facilitate long-term protection, and, where feasible, to



restore marine fishery habitats, and to achieve the sustainable use of the state's fishery resources [subdivision 7055(b) of the FGC] and that fisheries are conducted sustainably so that long-term health of the resources is not sacrificed in favor of short-term benefits [subdivision 7056(a) of the FGC].

The proposed regulatory changes will benefit the sustainable management of the fishery by specifying harvest methods for sea palm, employing a precautionary approach to remaining sea palm populations in the southern range of the species, requiring specific harvest location to better manage sea palm populations, improve the Department's knowledge of allowable marine algae harvest methods utilized, provide further clarification of license allowances, and update outdated references.

#### Consistency and Compatibility with Existing Regulations

The proposed regulatory changes are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the state Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to adopt regulations governing the harvest of kelp and other aquatic plants for profit (FGC Section 6653). No other state agency has the authority to adopt regulations governing the harvest of kelp and other aquatic plants for profit. The Commission has reviewed its own regulations and finds that the proposed regulatory changes are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR and has found no other state agency regulations pertaining to the commercial harvest of kelp and other aquatic plants; therefore, the Commission has concluded that the proposed regulatory changes are neither inconsistent nor incompatible with existing state regulations.

**Attachment 1. 2025 Kelp Harvesting License Fee Calculation (\$6651, FGC)**

In accordance with California Fish and Game Code Section 713, the annual fee increase is based upon annual rate of change (index) of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services. This is calculated as follows:

a. 2023 License Fee		\$ 174.75
b. multiplied by the 2024 IPD index		0.055226
c. fee increase	=	\$ 9.65
d. rounded to the nearest 25 cents	=	\$ 9.75
e. 2024 Kelp Harvesting License Fee (a + d)	=	\$ 184.50
f. 2024 License Fee		\$ 184.50
g. multiplied by the 2025 IPD index		0.017863
h. fee increase	=	\$ 3.30
i. rounded to the nearest 25 cents	=	\$ 3.25
j. 2025 Kelp Harvesting License Fee (f + i)	=	\$ 187.75



## Proposed Regulatory Language

Section 165, Title 14, CCR, is amended to read:

### § 165. Commercial Harvesting of Kelp and Other Aquatic Plants.

(a) General License Provisions. Pursuant to the provisions of Section 6651 of the Fish and Game Code, no kelp or other aquatic plants may be harvested for commercial purposes except under a revocable license issued by the department pursuant to this section or a marine aquaria collector's permit issued pursuant to Section 8597 of the Fish and Game Code. Collectors of kelp and other aquatic plants for broodstock purposes for aquaculture must refer to Section 243 of these regulations.

(1) Any person harvesting kelp or other aquatic plants for commercial purposes shall first obtain a valid license for that purpose and shall have that license on their person or in their immediate possession when engaged in carrying out any activity authorized by the license.

(A) Kelp harvesting licenses are valid from January 1 to December 31, inclusive, or if issued after the beginning of that term, for the remainder thereof.

(B) Drying Permits for agar-bearing marine plants. Pursuant to Section 6653.5 of the Fish and Game Code, no person shall reduce the moisture content or otherwise dry agar-bearing marine plants harvested from waters of the state except under the authority of a Drying Permit issued by the department. To obtain a Drying Permit, the applicant must choose the Drying Permit option on the Kelp Harvesting License and Drying Application (~~DFW 658~~) incorporated by reference in Section 705.4 provided by the department.

~~(C) License applications, informational maps depicting administrative kelp beds (defined in Section 165.5) and maps of fishing blocks (specified in subsection 190(f)) for edible seaweed and agar-bearing marine algae, and Monthly Harvest Reports~~ Initial license applications are available on request by contacting the department's Seal Beach office by phone at (562) 342-7100. License and Revenue Branch at (916) 928-5822 or by email [LRBCOMM@wildlife.ca.gov](mailto:LRBCOMM@wildlife.ca.gov). Subsequent licenses are available for purchase online <https://www.ca.wildlifelicense.com/internetsales/>.

~~(D) Informational maps depicting administrative kelp beds (defined in Section 165.5) and maps of fishing blocks (specified in subsection 190(f)) for edible seaweed and agar-bearing marine algae, and Monthly Harvest Reports~~ are available on the department's webpage <https://wildlife.ca.gov/Conservation/Marine/Kelp/CommercialHarvest>.

(2) Cost of License. See Section 6651 of the Fish and Game Code.

(3) Where to Submit Applications. The applicant for a Kelp Harvesting and Drying Permit shall submit the completed application, as specified in Section 705.1, together with the fee authorized by Section 6651 of the Fish and Game Code, to the address

listed on the application. Pursuant to Section 700.5, license applications and authorized fees may also be submitted electronically using the Automated License and Data System through the department's Online License Sales and Services website by applicants who have a GO ID number and previously acquired a Kelp Harvesting and Drying Permit. ~~upon the department's establishment of an online submission system.~~

~~(4) License Limitation. All provisions of sections 6650–6680 of the Fish and Game Code, and sections 165 and 165.5 of these regulations shall become a condition of all licenses issued under this section to be fully performed by the holders thereof, their agents, servants, employees or those acting under their direction or control.~~

(A) All provisions of sections 6650 through 6680 of the Fish and Game Code, and sections 165 and 165.5 of these regulations shall become a condition of all licenses issued under this section to be fully performed by the holders thereof, their agents, servants, employees or those acting under their direction or control.

(B) Pursuant to Section 6656 of the Fish and Game Code, a kelp harvesting license may be revoked and reissuance may be prohibited for a period of not more than one year if the licensee harvested kelp from a closed bed and/or if the licensee violated any laws or regulations related to kelp.

*[ . . . No changes to subsections (b) through (b)(9). . . ]*

(c) Harvesting of giant and bull kelp. In this subsection, kelp means both giant and bull kelp.

(1) A kelp harvester may harvest kelp by cutting and removing portions of attached kelp or by collecting unattached kelp.

(2) A kelp harvester ~~may~~ shall not cut attached kelp at a depth greater than four feet below the surface of the water at the time of cutting.

(3) No kelp received aboard a harvesting vessel shall be allowed to escape from the vessel or be deposited into the waters of this state.

(4) In beds north of Point Montara, San Mateo County, bull kelp may only be taken by hand harvesting. Hand harvesting includes using manually operated hand-held tools. No mechanical harvesters of any kind shall be allowed.

(5) Between April 1 and July 31, a kelp harvester may not harvest bull kelp from a nonleased kelp bed that lies partially or totally within the boundary of the Monterey Bay National Marine Sanctuary extending from Santa Rosa Creek, San Luis Obispo County, northward to Rocky Point, Marin County. This subsection does not preclude the removal of bull kelp from beaches within the Monterey Bay National Marine Sanctuary during the seasonal closure.

(6) Monthly Harvest Reports for uses other than human food. Monthly Harvest Reports shall be made in duplicate using Commercial Kelp Harvester's Monthly Report form DFW 113 incorporated by reference in Section 705.1.

(A) In addition to the license fee, a kelp harvester shall pay a royalty fee of \$1.71 for each ton (2,000 lbs) of wet kelp harvested from a nonleased administrative kelp bed.

(B) Maintenance and submission requirements for Commercial Kelp Harvester's Monthly Harvest Reports and submission requirements for royalty fees are specified in subsection (b)(3).

(7) Mechanical Harvest of Kelp. Prior commission approval of a kelp harvest plan is necessary before a kelp harvester may use a mechanical harvester to harvest giant kelp.

(8) Kelp Harvest Plans. All kelp harvest plans shall include the following:

(A) The number of the designated bed or beds as shown in subsection 165.5(k), a description of the kelp bed or portion of the kelp bed requested, and the designated number of square miles in each bed or portion thereof;

(B) The intended use of kelp;

(C) If a mechanical harvester will be used, the kelp harvest plan must identify how the mechanical harvester will be used while avoiding:

1. repetitive harvest of individual giant kelp plants;

2. harvest of bull kelp from those portions of kelp beds that contain both giant kelp and bull kelp; and

3. harvest of giant kelp near sea otter rafting sites used by female sea otters with dependent pups.

(D) The amount of kelp proposed to harvest on a monthly and annual basis during the next five years.

(E) The estimated frequency of harvesting activities for each kelp bed.

(F) The number of harvest boats, maximum kelp holding capacity in wet tons for each boat, including the operating vessel gross tonnage and fuel tank capacity.

(G) Harvesting methodology (harvest operation description).

(H) All locations (addresses) where kelp landing and weighing will take place.

(I) The specific details of wet kelp weighing equipment and methods to be used at the landing sites for accurate reporting.

(J) The name, address, phone number, and license number of kelp processor and method of transporting the kelp to the processing location.

(K) Kelp harvest plans must be updated and submitted to the commission for approval every five years.

(9) Temporary harvest restrictions and weekly reporting for bull kelp. Subsections (c)(9) through (c)(9)(C)3. shall remain in effect only until January 1, 2026, and as of that date are repealed.

(A) Notwithstanding subsection (b)(8), bull kelp may not be taken for any purpose in Sonoma and Mendocino counties.

(B) Bull kelp may be harvested in Humboldt and Del Norte counties for human consumption only, not to exceed an annual overall fishery quota of 4 tons (8,000 lbs) wet weight for the combined counties between January 1 and December 31.

1. The department may announce a temporary commercial bull kelp harvest closure in order to obtain an accurate tally of harvest. If the annual overall fishery quota has not been met, the fishery will reopen and commercial kelp harvester license holders shall be limited to allotted harvest amounts to preclude exceeding the annual overall fishery quota and the annual license quota specified in subsection 165(e)(2)(A).

a. Allotted harvest amounts will be calculated as the difference between the annual overall fishery quota and bull kelp harvest from Humboldt and Del Norte counties reported in the monthly harvest reports required pursuant to subsection 165(b)(3) and the weekly harvest reports required pursuant to subsection 165(c)(9)(C), divided by the number of licensed harvesters who indicated "Bull Kelp (Human Consumption)" on their Kelp Harvesting License and Drying Application ~~DFW 658~~ and those who have not indicated "Bull Kelp (Human Consumption)" on their Kelp Harvesting License and Drying Application ~~DFW 658~~ but have reported take of bull kelp in Del Norte and/or Humboldt counties on their Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Reports DFW 113A in one or more months during the current annual fishery quota period.

b. Licensed harvesters who indicated "Bull Kelp (Human Consumption)" on their Kelp Harvesting License and Drying Application ~~DFW 658~~ and licensed harvesters who did not indicate "Bull Kelp (Human Consumption)" on their Kelp Harvesting License and Drying Application ~~DFW 658~~ but have reported take of bull kelp in Del Norte and/or Humboldt counties on their Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Reports DFW 113A in one or more months during the current annual fishery quota period shall be allotted the amount calculated in subsection 165(c)(9)(B)1.a. If the allotment exceeds the amount remaining in a licensed harvester's annual license quota specified in subsection 165(e)(2)(A), the licensed harvester's allotment shall be decreased to the amount remaining in the licensed harvester's annual license quota and the amount of the allotment in excess of the licensed harvester's annual license quota shall be divided equally between the remaining licensed harvester(s) who have not exceeded their annual license quota specified in subsection

165(e)(2)(A). Prior to reopening the fishery, the department shall notify licensed harvesters via email of their allotted amount.

2. The department shall inform the public by posting a notice on its webpage ~~<https://wildlife.ca.gov/Conservation/Marine/Kelp/Commerical-Harvest>~~ <https://wildlife.ca.gov/Conservation/Marine/Kelp/Commercial-Harvest> and shall notify commercial kelp harvester license holders by email prior to any implementation of a temporary closure pursuant to subsection 165(c)(9)(B)1., allotments pursuant to subsections 165(c)(9)(B)1. through 165(c)(9)(B)1.b., or an annual closure triggered by the annual overall fishery quota. (Note: A department status report on progress toward the annual overall fishery quota is updated weekly and available at ~~<https://wildlife.ca.gov/Conservation/Marine/Kelp/Commerical-Harvest>~~ <https://wildlife.ca.gov/Conservation/Marine/Kelp/Commercial-Harvest>.)

3. It is the responsibility of the harvester to keep themselves informed of the remaining quota by monitoring the reported harvest on the department's webpage: ~~<https://wildlife.ca.gov/Conservation/Marine/Kelp/Commerical-Harvest>~~ <https://wildlife.ca.gov/Conservation/Marine/Kelp/Commercial-Harvest>. Any announcement issued shall constitute official notice.

4. All harvest in excess of the annual overall fishery quota or allotments shall be forfeited to the department by signing a Release of Property DFW 1108 incorporated by reference in Section 705.1. The excess harvest shall be used, sold, disposed of, or donated to a non-profit institution. If sold, the proceeds of all such sales shall be paid into the Fish and Game Preservation Fund.

(C) Mandatory Harvest Data Reporting Requirements for bull kelp.

1. In addition to monthly reporting, persons harvesting bull kelp in Humboldt and Del Norte counties must submit weekly reports by email to [kelp@wildlife.ca.gov](mailto:kelp@wildlife.ca.gov).

2. Weekly harvest reports shall be submitted by 5:00 p.m. on each Monday for the Sunday through Saturday of the preceding week. Weekly harvest reporting is required for the duration of the annual license unless the harvester provides a notice via email to [kelp@wildlife.ca.gov](mailto:kelp@wildlife.ca.gov) that bull kelp will not be harvested within a specified time frame or no longer occur for the remainder of the license year.

3. Harvest reporting shall be provided in the email body and shall include business name, business contact name, harvester license number, amount of harvest in pounds by county in which harvest occurred, and time period of harvest which includes the month, specific calendar days of harvest, and year.

*[ . . . No changes to subsections (d) through (d)(4). . . ]*

(e) Harvesting of marine plants, including the genera Porphyra, Laminaria, Monostrema, and other aquatic plants utilized fresh or preserved as human food and classified as edible seaweed.

(1) General Provisions.

(A) Edible varieties of marine plants, except sea palm (*Postelsia palmaeformis*), must be harvested by cutting or picking, except that drift or loose plants may be picked up by the harvester. Sea palm may only be harvested by cutting as specified in subsection (e)(3)(A). All harvested plants must be processed.

(B) Edible seaweed may be harvested from state waters throughout the year, except as provided under Section 164.

(C) While harvesting edible seaweed, it is unlawful to take or possess abalone.

(D) A harvester may use conventional underwater diving gear or SCUBA while harvesting edible seaweed.

(E) Harvesters of giant and bull kelp shall adhere to regulations specified in subsections (c)(1) and (c)(4) through (c)(5). Harvesters of giant kelp shall adhere to the regulations specified in subsection (c)(2).

(2) Harvest of Bull Kelp for Human Consumption.

(A) Unless otherwise prohibited, in addition to open or leasable beds, bull kelp may be harvested for human consumption in a closed or lease-only administrative kelp beds described in subsection 165.5(k) if the beds are not leased. Persons operating under the authority of an edible seaweed harvesters license may take, not to exceed, 2 tons (4,000 lbs) of bull kelp annually per license. The entire plant may be harvested.

(B) Temporary bull kelp harvest restrictions and harvest reporting are specified in subsections (c)(9) through (c)(9)(C)3.

(3) Harvest of Sea Palm for Human Consumption

(A) Sea palm cannot be cut or harvested anywhere on the plant except as described in these regulations. Allowable harvest cut location shall be determined by locating the grooved area on the blade and cutting the blade at least 1.5 inches away towards the terminal tip of the blade. Harvesters may not take detached, drift, or beached individuals. Drift is defined as detached individuals floating in the water, beached is defined as detached individuals on the beach or rocks.

(B) No marine invertebrate species 1 inch or greater in width shall be taken or possessed while harvesting sea palm as authorized in this section. Sea palm must be inspected for marine invertebrate species less than 1 inch in width prior to transport. Unless take is otherwise prohibited, marine invertebrate species less than 1 inch in width may be incidentally taken if every effort is made to return them near their habitat of origin upon harvest.

(C) No sea palm may be cut, disturbed, or possessed from the 37° 11' north latitude line at Pigeon Point in San Mateo County southward to the United States-Mexico border.

~~(3)~~(4) Weighing of Edible Marine Plants. All edible marine plants shall be weighed pursuant to the provisions of subsection (b)(3)(D).

~~(4)~~(5) Monthly Harvest Reports shall be made in duplicate using Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report DFW 113A incorporated by reference in Section 705.1.

~~(5)~~(6) In addition to the license fee, an edible seaweed harvester shall pay a royalty fee of \$24 per ton (2,000 lbs) of wet edible seaweed harvested.

~~(6)~~(7) Maintenance and submission requirements for Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report and submission requirements for royalty fees are specified in subsection (b)(3).

*[ . . . No changes to subsections (f) through (g) . . . ]*

NOTE: Authority cited: Sections 6653 and 6653.5, Fish and Game Code.  
Reference: Sections 51, 6650, 6651, 6652, 6653, 6653.5, 6654, 6656 and 6680, Fish and Game Code.



### Proposed Regulatory Language

Section 705.1, Title 14, CCR is amended to read:

#### **§ 705.1. Commercial Kelp Harvesting and Drying Application, Monthly Harvest Reports.**

*(a) Application*

(1) ~~2023 Kelp Harvesting License and Drying Application. Applications,~~ Applications, designated on a form issued by the department containing the information in subsections(a)(1)(A) through (a)(1)(X), are available from the department's License and Revenue Branch, DFW 658 (REV. 01/01/23), incorporated by reference herein. It is mandatory to complete all items unless otherwise specified.

(A) First name, middle initial and last name

(B) Automated License Data System Get Outdoors Identification number (Go ID#)

(C) Business Name (not required for individuals)

(D) Name, place and date of incorporation

(E) Harvester License number (required unless first application for a license)

(F) Mailing address, city, state, and zip code

(G) Street address, city, county, state, and zip code

(H) Email address

(I) Daytime telephone number

(J) Business telephone number

(K) Gender: male, female, or nonbinary

(L) Date of birth

(M) Hair color

(N) Eye color

(O) Height

(P) Weight

(Q) Boat name, if boat used. If kayak used, write "kayak."

(R) California vessel registration number (except kayaks).

(S) Number of processing plants



(T) Method of harvesting: hand or mechanical

(U) Type(s) of aquatic plant(s) to be harvested: agar, edible seaweed, bull kelp, bull kelp for human consumption, giant kelp

(V) Drying permit: (Select this option if you choose to dry harvest pursuant to California Code of Regulations (CCR), Title 14, subsection 165(a)(1)(B).)

(W) Verification: I understand that I must obtain a valid license from the department once per year before I begin harvesting kelp or other aquatic plants.

(X) Signature and signature date: In the event a license is granted, I hereby agree to abide by all conditions of said license and all laws and regulations of the California Fish and Game Code (FGC) and the CCR, including FGC sections 6650 through 6711 and CCR, Title 14, Sections 165, 165.5, and 705.1. I am eligible for the indicated license and do not possess a license that is suspended or revoked, nor is there a case pending that would restrict me from obtaining a license. I hereby certify that all information contained on this application and/or submitted to meet the requirements for issuance of subject license is true and correct. I understand that, in the event this information is found to be untrue or incorrect, the license 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 pursuant to FGC Section 1054. I understand that, pursuant to FGC Section 6656, this license or permit may be suspended or revoked by the California Fish and Game Commission for violations of any law or regulation relating to kelp.

(2) Permit-License Fees. \$174.75-\$187.75 (does not include the fees specified in subsection 700.4(e)).

*(b) Monthly Harvest Reports*

(1) Commercial Kelp Harvester's Monthly Report DFW 113 (~~REV. 01/01/23~~), (REV. 04/17/25) incorporated by reference herein.

(2) Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report DFW 113A (~~REV. 01/01/23~~), (REV. 04/17/25) incorporated by reference herein.

*(c) Release of Property*

(1) Release of Property DFW 1108 (NEW 07/01/22), incorporated by reference herein.

NOTE: Authority cited: Sections 1050, 6651, 6653 and 6653.5, Fish and Game Code. Reference: Sections 713, 1050, 6650, 6651, 6652, 6653 and 6653.5, Fish and Game Code.



Business Name \_\_\_\_\_ Business Contact Name \_\_\_\_\_

Harvester's License Number \_\_\_\_\_ Report Period: Month \_\_\_\_\_ Year \_\_\_\_\_

Number of individuals harvesting for the business during this report \_\_\_\_  Check if no harvest occurred Number of report pages submitted: \_\_\_\_\_

Date	Bed # <sup>1</sup>	MPA <sup>2</sup>	Giant or bull kelp	Latitude/longitude for bull kelp harvest only <sup>3</sup>	Drift or Beached <sup>4</sup>	Number of Individuals Harvesting	Estimated Harvest Time (minutes)	Tons harvested <sup>4</sup> harvested <sup>5</sup>

<b>OPEN or LEASABLE BEDS</b>	Total tons harvested	
	Rate per ton	\$1.71
	Total amount due	\$
<b>Bed #:</b>		
<b>LEASED BED</b> (use additional reports as needed)	Total tons harvested	
	Rate per <del>ton</del> <sup>5</sup> <u>ton</u> <sup>6</sup>	\$
	Total amount due	\$
	Balance of advanced <del>deposit</del> <sup>6</sup> <u>deposit</u> <sup>7</sup>	\$
	Net amount due	\$
<b>Bed #:</b>		
<b>TOTAL DUE (ALL BEDS)</b>		

Certificate: I hereby certify that I have reviewed this report and the information shown herein is true and correct to the best of my knowledge pursuant to the provisions of Fish and Game Code sections ~~6650-6711~~ 6650 through 6711 and sections 165, 165.5, and 705.1 of Title 14 of the California Code of Regulations. In accordance with California Civil Code subdivision 1633.5(b), I acknowledge that by providing my electronic signature for this form, I agree that my electronic signature is a legally binding equivalent to a handwritten signature. I hereby confirm that my electronic signature represents my execution or authentication of this form, and my intent to be bound by it.

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_



Regulations governing this report are found in Fish and Game Code section 6650 et seq. and California Code of Regulations, Title 14, sections ~~165-165.5-165, 165.5,~~ and 705.1. This report is made in accordance with provisions established in Chapter 6, Articles ~~1-3,~~ 1 through 3, sections ~~6650-6711,~~ 6650 through 6711, Fish and Game Code, and California Code of Regulations, Title 14, sections ~~165-165.5-165, 165.5,~~ and 705.1. The purpose of this form is to report the number of tons of wet kelp harvested during the month.

### General Instructions:

- A) Report must be completed each month regardless of whether harvest occurred (indicate no harvest). Include additional harvest reports as needed and specify the number of pages submitted.
- B) Make checks payable to California Dept. of Fish and Wildlife.
- C) Prepare report in duplicate. Retain one copy for your files. Submit the original to California Department of Fish and Wildlife, Accounting Services Branch/Cash Receipts at 715 P Street, 16<sup>th</sup> Floor, Sacramento, CA 95814 or by postal delivery to P.O. Box 944209, Sacramento, CA 94244-2090.
- D) Questions regarding this report may be addressed to: [kelp@wildlife.ca.gov](mailto:kelp@wildlife.ca.gov).

### Log Instructions:

1. Administrative kelp bed number. Indicate leased bed by prefixing bed number with "L."
2. If harvest is within a marine protected area (MPA) that allows take, specify the MPA name.
3. Central latitude/longitude coordinates of bull kelp harvest. If multiple locations of harvest are visited, provide the central coordinates for each location. Latitude/longitude coordinates should use the Decimal Degrees format with 5 decimal places. Use World Geodetic System of 1984 (WGS84) coordinate system/datum.
4. Specify if harvest is from the drift (detached in the water) or beached (detached on the beach/rocks).
- 4-5. Short ton = 2,000 pounds.
- 5-6. Leased bed, enter the contract rate per ton.
- 6-7. Leased bed, enter the balance of advanced deposit. If balance of advanced deposit is less than "Total amount due" show the difference in "Net amount due" column.



State of California – Department of Fish and Wildlife  
**COMMERCIAL EDIBLE SEAWEED/AGARWEED AQUATIC  
 PLANT HARVESTER'S MONTHLY REPORT**  
 DFW113A (REV. 01/01/23) DFW 113A (REV. 04/17/25) Page 1 of 2

Business Name \_\_\_\_\_ Business Contact Name \_\_\_\_\_

Harvester's License Number \_\_\_\_\_ Report Period: Month \_\_\_\_\_ Year \_\_\_\_\_

Number of individuals harvesting for the business during report \_\_\_\_\_ Check if no harvest occurred  Number of report pages submitted: \_\_\_\_\_

<u>Date</u>	Fishing block	Nearest prominent landmark	Latitude/longitude for bull kelp and sea palm harvest only <sup>1</sup>	Species – common or scientific name <sup>2</sup>	<u>Drift or Beached</u> <sup>3</sup>	<u>Number of Individuals Harvesting</u>	<u>Estimated Harvest Time (minutes)</u>	Total lbs. or tons agarweed or edible seaweed harvested	Rate per lb. or ton agarweed <sup>2</sup> agarweed <sup>4</sup> or edible seaweed <sup>3</sup> s eaweeds <sup>5</sup>	Net amount due
								Total due		

Certificate: I hereby certify that I have reviewed this report and the information shown herein is true and correct to the best of my knowledge pursuant to the provisions of Fish and Game Code sections ~~6650-6714~~6650 through 6711 and sections 165, 165.5, and 705.1 of Title 14 of the California Code of Regulations. In accordance with California Civil Code subdivision 1633.5(b), I acknowledge that by providing my electronic signature for this form, I agree that my electronic signature is a legally binding equivalent to a handwritten signature. I hereby confirm that my electronic signature represents my execution or authentication of this form, and my intent to be bound by it.

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_



State of California – Department of Fish and Wildlife

**COMMERCIAL EDIBLE SEAWEED/AGARWEED AQUATIC  
PLANT HARVESTER'S MONTHLY REPORT**

DFW113A (REV. 04/04/23) DFW 113A (REV. 04/17/25) Page 2 of 2

Regulations governing this report are found in Fish and Game Code section 6650 et seq. and California Code of Regulations, Title 14, sections ~~165-165.5-165, 165.5,~~ and 705.1. This report is made in accordance with provisions established in Chapter 6, Articles ~~1-3, 1 through 3,~~ sections ~~6650-6711, 6650 through 6711,~~ Fish and Game Code and California Code of Regulations, sections ~~165-165.5-165, 165.5,~~ and 705.1. The purpose of this report is to report the weight of wet edible seaweed/agarweed aquatic plants harvested during the month.

**General Instructions:**

- A) Report must be completed each month regardless of whether harvest occurred (indicate no harvest). Include additional harvest reports as needed and specify the number of pages submitted.
- B) Make checks payable to California Dept. of Fish and Wildlife.
- C) Prepare report in duplicate. Retain one copy for your files. Submit the original to California Department of Fish and Wildlife, Accounting Services Branch/Cash Receipts at 715 P Street, 16<sup>th</sup> Floor, Sacramento, CA 95814 or by postal delivery to P.O. Box 944209, Sacramento, CA 94244-2090.
- D) Questions regarding this report may be addressed to: [kelp@wildlife.ca.gov](mailto:kelp@wildlife.ca.gov).

**Log Instructions:**

<sup>1</sup> Central latitude/longitude coordinates of bull kelp and sea palm harvest. If multiple locations of harvest are visited, provide the central coordinates for each location. Latitude/longitude coordinates should use the Decimal Degrees format with 5 decimal places. Use World Geodetic System of 1984 (WGS84) coordinate system/datum.

<sup>2</sup> List one species per row.

<sup>3</sup> Specify if harvest is from the drift (detached in the water) or beached (detached on the beach/rocks).

<sup>2</sup> ~~\$17.00~~ <sup>4</sup> \$17.00 per wet ton (2,000 lbs.) or \$0.0085 per lb. of **agarweed/agar-bearing** marine plants.

<sup>3</sup> ~~\$24.00~~ <sup>5</sup> \$24.00 per wet ton (2,000 lbs.) or \$0.012 per lb. of **edible seaweed**.

SAVE

PRINT

CLEAR



State of California – Department of Fish and Wildlife  
**2023 KELP HARVESTING LICENSE AND DRYING APPLICATION**  
 DFW 658 (REV. 01/01/23) Page 1 of 2  
**FEE: \$179.99 (Valid January 1, 2023, through December 31, 2023)**

SEE INSTRUCTIONS ON REVERSE. PRINT CLEARLY.

FIRST NAME		M.I.	LAST NAME		GO ID#	
BUSINESS NAME			HARVESTER LICENSE # <i>(Required unless first permit)</i>		GENDER <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> NONBINARY	DATE OF BIRTH
MAILING ADDRESS				HAIR COLOR	EYE COLOR	HEIGHT
CITY		STATE	ZIP CODE		DAY TELEPHONE	BUSINESS TELEPHONE
STREET ADDRESS				COUNTY		
CITY		STATE	ZIP CODE		EMAIL ADDRESS	
BOAT NAME <i>(Complete if boat used. If kayak, write "kayak")</i>			CA VESSEL REGISTRATION NUMBER		NUMBER OF PROCESSING PLANTS	
METHOD OF HARVESTING <input type="checkbox"/> HAND <input type="checkbox"/> MECHANICAL		CHECK THE BOX FOR EACH TYPE OF AQUATIC PLANT TO BE HARVESTED <input type="checkbox"/> AGAR <input type="checkbox"/> EDIBLE SEAWEED <input type="checkbox"/> BULL KELP <input type="checkbox"/> BULL KELP (HUMAN CONSUMPTION) <input type="checkbox"/> GIANT KELP				
<input type="checkbox"/> DRYING PERMIT <i>(Select this option if you choose to dry harvest pursuant to California Code of Regulations (CCR), Title 14, Section 165(a)(1)(B).)</i>						
NAME, PLACE, AND DATE OF INCORPORATION						
<input type="checkbox"/> <b>(Required)</b> I understand that I must obtain a valid license from the Department's Seal Beach office once per year before I begin harvesting kelp or other aquatic plants.						
<i>In the event a license is granted, I hereby agree to abide by all conditions of said license and all laws and regulations of the Fish and Game Code (FGC) and the CCR, including FGC Sections 6650 – 6711 and CCR, Title 14, Sections 165, 165.5, and 705.1. I am eligible for the indicated license, and I am not under revocation or suspension, nor is there a case pending that would restrict me from obtaining a license. I hereby certify that all information contained on this application and/or submitted to meet the requirements for issuance of subject license is true and correct. I understand that, in the event that this information is found to be untrue or incorrect, the license 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. I understand this license or permit may be suspended or revoked by the California Fish and Game Commission if I am convicted of, or plead guilty or nolo contendere to, a Fish and Wildlife violation.</i>						
SIGNATURE <b>X</b>					DATE	
<b>FOR DEPARTMENT OF FISH AND WILDLIFE USE ONLY</b>						
ISSUED BY SEAL BEACH/DATE			TRANSACTION #			

IF NEW, YOU MUST INCLUDE VALID IDENTIFICATION WITH THIS APPLICATION



## Form Proposed to be Repealed



State of California – Department of Fish and Wildlife  
**2023 KELP HARVESTING LICENSE AND DRYING APPLICATION**

DFW 658 (REV. 01/01/23) Page 2 of 2

**FEE: \$179.99 (Valid January 1, 2023, through December 31, 2023)**

### INSTRUCTIONS FOR COMPLETING THE KELP HARVESTING LICENSE AND DRYING APPLICATION

Contact the California Department of Fish and Wildlife (CDFW) Seal Beach office by phone (562) 342-7100, if you need additional information regarding the kelp harvesting license and drying application.

#### INSTRUCTIONS

1. It is mandatory to complete all items unless specified as voluntary.
2. Sign and date the application.
3. Mail the application with a cashier's check, money order, personal check, or credit card authorization form with the appropriate fee to the **California Department of Fish and Wildlife, 3030 Old Ranch Parkway, Suite 400, Seal Beach, CA, 90740.**

#### IDENTIFICATION REQUIREMENT

California Code of Regulations (CCR), Title 14, Section 700.4(c), states any applicant applying for any license, tag, permit, reservation or other entitlement issued via the Automated License Data System (ALDS) shall provide valid identification. Acceptable forms of identification include:

- Any license document or Get Outdoors identification number (GO ID) previously issued via ALDS
- A valid driver's license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile
- US Military Identification Cards (Active or reserve duty, dependent, retired member, discharged from service, medical/religious personnel)
- US Certificate or Report of Birth Abroad
- US Birth Certificate
- Tribal Identification Card, as defined by each sovereign tribal nation
- US Passport
- A foreign government-issue photo identification
- Certificate of Naturalization or Citizenship
- Birth Certificate or passport issued from a US Territory

Any applicant less than 18 years of age applying for any license, tag, permit, reservation or other entitlement issued via the ALDS shall provide valid identification. Acceptable forms of identification include any form of identification described above; or a parent or legal guardian's identification as described above.

At all times when engaged in any activity for which a commercial fishing license is required, the licensee shall have in his or her possession, or immediately available to the licensee, a valid driver's license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile. A current passport may be used in lieu of a valid driver's license or identification card by a holder of a valid nonresident commercial fishing license issued pursuant to Fish and Game Code (FGC), Section 7852(b). The licensee's driver's license, identification card or, if applicable, passport, shall be exhibited upon demand to any person authorized by CDFW to enforce this code or regulations pursuant to FGC Section 7852.27.

#### NOTICE

Pursuant to FGC, Sections 6650 - 6680, and CCR, Title 14, Sections 165 and 165.5, CDFW is authorized to collect information from kelp harvesting license and drying applicants to maintain a record of licensure. All information requested on the application is mandatory unless otherwise indicated. Pursuant to FGC, Section 391, CDFW may exchange or release to appropriate federal, state, or local agency or agencies in other states, for purposes of law enforcement, any information collected or maintained by CDFW.

#### PAYMENT POLICY

**Personal Checks** will be accepted if name and address are imprinted on the check. Make checks payable to "California Department of Fish and Wildlife". Checks returned to CDFW due to insufficient funds will render your license or permit invalid. CDFW may also deny the issuance or renewal of any license or permit if a person has failed to reimburse CDFW for the amount due. Any commercial activity performed without a valid license or permit is a violation of the FGC and therefore subject to enforcement action.

**Credit Cards**- Licenses, permits, and other entitlements may be purchased with debit or credit cards displaying the Visa or Mastercard logo.

**Cash** is not accepted at CDFW's license sales offices.

**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME <b>Fish and Game Commission</b>	CONTACT PERSON <b>David Thesell</b>	EMAIL ADDRESS <b>fgc@fgc.ca.gov</b>	TELEPHONE NUMBER <b>916-201-6201</b>
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 <b>Amend sec. 165 &amp; 705.1, T14, CCR, re: Commercial Harvest of Kelp &amp; Other Aquatic Plants, App., Reports</b>			NOTICE FILE NUMBER <b>Z</b>

**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 checked="" type="checkbox"/> a. Impacts business and/or employees | <input checked="" type="checkbox"/> e. Imposes reporting requirements   |
| <input checked="" 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 type="checkbox"/> h. None of the above (Explain below):          |

*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.*

**Fish and Game Commission**

2. The \_\_\_\_\_ 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: 32

Describe the types of businesses (Include nonprofits): Commercial Kelp Harvesters and marine algae harvesters

Enter the number or percentage of total businesses impacted that are small businesses: 100%

4. Enter the number of businesses that will be created: 0 eliminated: 0

Explain: Opportunity for comm. marine algae harvest being kept open, except for sea palm closure in non-harvested area.

5. Indicate the geographic extent of impacts:  Statewide  
 Local or regional (List areas): Pigeon Point closure, San Mateo Co. southward.

6. Enter the number of jobs created: 0 and eliminated: 0

Describe the types of jobs or occupations impacted: Latest harvest data indicates that no commercial sea palm harvesters will be impacted by the proposed Pigeon Point, San Mateo County southward closure and harvest method changes are memorializing existing practices.

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: Commercial harvest of wild marine algae is not allowed in nearby states of Oregon and Washington therefore the industry is not competing with nearby markets for wild harvested marine algae.

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

STD. 399 (Rev. 10/2019)

**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? \$ 3,335.36 annually
- a. Initial costs for a small business: \$ 229.23 including GPS Annual ongoing costs: \$ 29.23 reporting Years: Annually
- b. Initial costs for a typical business: \$ 229.23 including GPS Annual ongoing costs: \$ 29.23 reporting Years: Annually
- c. Initial costs for an individual: \$ N/A Annual ongoing costs: \$ N/A Years: N/A
- d. Describe other economic costs that may occur: Some may buy a \$200 hand-held GPS unit to record central latitude/longitude of sea palm harvest. No loss of income is expected from closure due to lack of harvest or from harvest methods due to current industry practices.
2. If multiple industries are impacted, enter the share of total costs for each industry: N/A only commercial kelp and marine algae harvesters are affected.
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. \$ 29.23
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: Under the Marine Life Management Act (MLMA), it is the policy of the state to ensure the conservation, sustainable use, and restoration of California's living marine resources for the benefit of all citizens of the state (FGC Section 7050).

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, worker safety and the State's environment: No direct benefits to the health and welfare of California residents, nor to worker safety. Will benefit the State's environment by contributing to the conservation of sea palm.
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 6653 provides the authority to regulate taking of kelp and other aquatic plants.
3. What are the total statewide benefits from this regulation over its lifetime? \$ harvest+ecosystem values
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: None, no expansion is anticipated as a result of these regulations.

**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: Alt 1: No change alternative. Sea palm harvest will continue to be allowed in a manner that is not specific to the species which may result in loss of sea palm populations, current harvest methods used by sea palm harvesters will not be memorialized into regulation, despite sea palm loss in its southern range harvest will be allowed to continue without regard to concerns of the population from Pigeon Point, San Mateo Co. southward.

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

STD. 399 (Rev. 10/2019)

**ECONOMIC IMPACT STATEMENT (CONTINUED)**

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

Regulation: Benefit: \$ 0 Cost: \$ 3,335.36Alternative 1: Benefit: \$ 0 Cost: \$ 0Alternative 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 quantify the benefits to the sea palm industry given that the regulations do not necessarily provide monetary benefits. Additional environmental benefits are also difficult to monetize.

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: Harvest reports are more enforceable for kelp resource management.**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: No impact on the level of investment in the State is anticipated.The incentive for innovation in products, materials or processes: No impact on the incentive for innovation in products, materials, or processes is anticipated.

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: No benefits to the health, safety, or welfare of CA residents, or to worker safety. Allows for better management of sea palm.

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

STD. 399 (Rev. 10/2019)

**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. 10/2019)

**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



*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



*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





**STD399 ADDENDUM**

**Amend Sections 165 and 705.1  
Title 14, California Code of Regulations  
Re: Commercial Harvest of Kelp and Other Aquatic Plants;  
Commercial Kelp Harvesting and Drying Application, Monthly Harvest Reports  
ECONOMIC IMPACT STATEMENT**

**Background**

Sea palm (*Postelsia palmaeformis*) is an annual kelp marine alga that is managed in Section 165, Commercial Harvesting of Kelp and Other Aquatic Plants, within subsection (e) marine plants harvested as human food and classified as edible seaweed.

Sea palm lives in the upper-mid intertidal zone and is exposed to heavy wave action. The species consists of a holdfast which attaches the individual to its substrate, a long stipe, and branches with blades that are located on top of the individual. Reproductive spores develop on the blades in late spring to early summer, which are released from the blades during low tide resulting in a limited dispersal of one to five meters. Sea palm is commercially harvested for use as human food. The majority of sea palm harvested on an annual basis is north of San Francisco, including 97 percent of statewide take within Mendocino County. Since 2020, commercial sea palm harvest has declined statewide, and the number of commercial harvesters has also declined since 2021.

Sea palm can be susceptible to overharvest due to its morphology, limited spore dispersal, annual life cycle, and existing allowable harvest methods which allow cutting and picking of attached individuals and taking of drift and loose individuals. Eight monitoring sites established by the Multi-Agency Rocky Intertidal Network (MARINE – a partnership of universities, agencies, and private groups which conduct long-term monitoring of rocky intertidal ecosystems U.S. west coast) have collected data before and after the Northeast Pacific Marine Heatwave (MHW) that began in mid-2014 and continued through 2016.

MARINE monitoring data depicts a drop in sea palm density after 2014 at the annually monitored sites, with the most loss in its southern range, which coincides with the Northeast Pacific MHW that began in mid-2014. Researchers have determined that sea palm loss is primarily due to the Northeast Pacific MHW, similar to the declines that have been documented in bull kelp along the north coast.

Subsection (e) of Section 165 provides regulations pertaining to species harvested for human food and classified as edible seaweed including regulations specific to bull kelp harvest for human consumption. Sea palm is not specifically listed in current regulation but is an aquatic plant classified as edible seaweed and thus subject to the harvest regulations in subsection 165(e). Current allowable harvest methods for sea palm and other edible seaweed species include cutting and picking attached individuals and

taking drift or loose individuals. There are no limits on the number of commercial kelp harvesting licenses sold, and no harvest limits or seasonal closures for sea palm.

### Overview of Proposed Regulations

The proposed regulatory changes pertaining to partial range closure and blade cutting methods are the result of long-term monitoring and published literature. Specifically, The Department of Fish and Wildlife (Department) staff have reviewed the sea palm [MARINE](#) long-term monitoring data and have had frequent discussions with MARINE's Principal Investigator to learn more about the monitoring data, concerns for the species, and research needs. Discussions have also included the need for additional research on harvest methodologies.

Based on MARINE long-term monitoring, sea palm researcher discussions, stakeholder conversations, and a lack of existing defined sea palm harvest methods in current regulations, the Department is recommending management changes to the commercial harvest of sea palm which are necessary to improve current and future management of this marine algae.

The proposed regulatory changes for sea palm define specific harvest methods for sea palm that allow for consistency of methods across all harvesters and potentially allows for the sea palm blades to regrow and reproduce. This proposed amendment defines a partial blade cut approach, to cut the blades a minimum of one- and one-half inches above the meristem (group of cells that divide rapidly to initiate growth). This proposed harvest method memorializes the current harvest methods utilized by the commercial sea palm harvesters and has received consensus support. Additionally, the Department recommends restricting the incidental take of marine invertebrate species during sea palm harvest as requested by the Department's Law Enforcement Division (LED).

To better manage the sea palm population, specific harvest location data is needed, and the Department is recommending to improve self-reported harvest log data through adding the requirement of reporting central latitude/longitude coordinates of harvest location.

The Department also recommends prohibiting sea palm harvest in the southern portion of its range from Pigeon Point in San Mateo County southward to the United States-Mexico border due to concerns around its loss and lack of recovery in that area at the southern end of its range. The Department's LED recommends using Pigeon Point, San Mateo County (37° 11' north latitude) as the northern boundary for closure to aid in enforcement of the regulations, and the Department has confirmed, based on the most recent harvest data, that there are no commercial harvesters who would be impacted by the proposed closure.

Finally, the Department is recommending amendments regarding the self-reported harvest information to improve Department knowledge of commercial harvest methods and harvest efforts for all marine algae species including:

- Requiring the day of harvest on the Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report (DFW 113A) for all harvested algae.

- Specifying if take was “drift” or “beached” on both the DFW 113 and DFW 113A harvest reports. For the purposes of the reports, drift will be defined as detached in the water and beached defined as detached on the beach/rocks.
- Requiring additional information on species-specific harvest effort data by specifying the number of individuals harvesting each day and estimated harvest time in minutes on both DFW 113 and DFW 113A. The existing requirement of the number of individuals harvesting for all reported harvest during the report period will be retained.

Other proposed revisions include updating the kelp harvester license fee pursuant to Section 713 of the Fish and Game Code, clarifying regulatory language by referring individuals interested in marine algae collections for broodstock purposes to the appropriate regulations, updating outdated contact information to purchase a commercial Kelp Harvesting License and to receive copies of informational maps depicting administrative kelp beds and fishing blocks and monthly harvest reports, providing reference to an existing Fish and Game Code section describing conditions under which a license can be revoked or not reissued, and other non-substantive changes for clarity and consistency.

#### **A. Estimated Private Sector Cost Impacts**

1. Answer: a. Impacts business and/or employees; b. Impacts small businesses; e. Imposes reporting requirements

The proposed amendments to the regulations for commercial harvest of kelp are anticipated to maintain sufficient opportunity to not induce significant adverse direct or indirect economic impacts to businesses in the state. The Department has confirmed via the latest harvest data that there are no commercial harvesters who would be impacted by the proposed closure from Pigeon Point in San Mateo County (37° 11' north latitude line) southward to the United States-Mexico border.

This proposed regulatory action also describes allowable harvest cut location as determined by locating the grooved area on the blade and cutting the blade at least one-and one-half inches away towards the terminal tip of the blade. The proposed partial blade cut harvest method does not represent an adverse economic impact because it memorializes into regulation the current harvest methods conducted by the commercial sea palm harvesters and has received consensus support from the sea palm harvesting community.

Additionally, the proposed reporting amendments for sea palm and other marine algae require modifications to the Commercial Kelp Harvester’s Monthly Report (DFW 113) and Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester’s Monthly Report (DFW 113A) for all harvested algae that are currently required and should only require five minutes of additional labor for harvesters to complete the reporting requirements for each report. The annual cost for compliance is estimated to be \$29.23 per business for filing 12 reports as described in B. Estimated Costs.

Finally, the requirement to provide the central latitude and longitude locations of sea palm harvest will necessitate the harvester to have GPS capability; however, no specific equipment for such capability is prescribed. Thus, the requirement to provide specific harvest locations using coordinates provided by GPS should not represent an adverse economic impact. The proposed reporting of the location of harvest using spatial geographical coordinates (latitude/longitude) may require the acquisition of a GPS location device (approximately \$200 one-time cost) or a mobile phone application if GPS capacity is not already possessed.

The Commission does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses in California. Kelp and other marine algae harvesting businesses may have to adjust to changes in reporting procedures as described in the proposed regulations, but these changes are not expected to be substantial due to the opportunity for commercial kelp and other marine algae harvest being kept open, except for the proposed sea palm closure area south of Pigeon Point from which sea palm is not currently harvested. The cumulative effects of the changes statewide are expected to be neutral to expansion of businesses currently doing business within the state. No significant changes in total harvesting effort and commercial kelp and other marine algae harvesting expenditures to other businesses are expected as a direct result of the proposed regulation changes.

## **B. Estimated Costs**

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime?

Answer: \$ 3,335.36 annually

a. Initial costs for a small business: Total costs for reporting and if a GPS unit is needed are \$229.23. A kelp harvester must have a means to record the central latitude and longitude of harvest if they do not already have a suitable device. Widely available boat navigation equipment, or a GPS unit would enable the reporting of latitude and longitude. Costs for a GPS unit are estimated to be a \$200 one-time cost. Reporting costs are estimated to be \$29.23 annually for harvesters of giant kelp, bull kelp, agarweed, and edible seaweed.

b. Initial costs for a typical business: Total costs for reporting and if a GPS unit if needed are \$229.23. A kelp harvester must have a means to record the central latitude and longitude of harvest if they do not already have a suitable device. Widely available boat navigation equipment, or a GPS unit would enable the reporting of latitude and longitude. Costs for a GPS unit are estimated to be a \$200 one-time cost. Reporting costs are estimated to be \$29.23 annually for harvesters of giant kelp, bull kelp, agarweed, and edible seaweed.

c. Initial costs for an individual: = \$0 (N/A to individuals unless they are the business owner)

Annual ongoing costs: = \$29.23 for complying with reporting requirements for all harvesters of giant kelp, bull kelp, agarweed, and edible seaweed.

The last five years of harvest from 2019-2023 had a range of 4 license holders who reported sea palm take in 2023 and 12 license holders that reported sea palm take in 2021, as seen in Table 1. The Department has not verified that all harvest reports were received for the 2023 season and that number may not be an accurate depiction of the number who actually harvested sea palm. For this cost analysis the Department estimated that all 12 license holders who reported sea palm harvest must purchase GPS equipment to provide the required latitude and longitude of harvest, bringing the total cost of GPS purchasing to \$2,400 for 12 sea palm harvesters. This cost represents an initial cost, while the expected ongoing costs from the regulation are associated with the estimated \$29.23 annual reporting costs for all harvesters of giant kelp, bull kelp, agarweed, and edible seaweed, as described in Answer 3 of this section.

**Table 1: Years and Reported Sea Palm Harvest from License Holders**

Year	Number of license holders that reported sea palm harvest
2014	9
2015	10
2016	9
2017	13
2018	10
2019	9
2020	8
2021	12
2022	9
2023	4

Source: Department analysis of licenses sold and reported sea palm harvest from Edible Seaweed/Agarweed Harvester’s Monthly Reports

**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.*

Answer: \$29.23 per kelp harvesting business.

The proposed changes to the Commercial Kelp Harvester’s Monthly Report (DFW 113) and Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester’s Monthly Report (DFW 113A) for all harvested algae applies to all kelp license holders, not just the 12

that are harvesting sea palm commercially. The proposed change will result in an estimated additional five minutes of reporting per harvest report, as described in Table 2.

**Table 2. Kelp and Edible Seaweed Harvester Reporting Costs Per Harvest Report**

Task	Minutes	Hourly Rate	Cost
Record Keeping	5 (0.0833 hour)	\$29.23	\$2.44
Total	5 (0.0833 hour)	\$29.23	\$2.44

Sources: Department analysis; Bureau of Labor Statistics, Supervisor of Fishing Workers mean hourly wage rate, 2023, <https://www.bls.gov/oes/current/oes451011.htm>.

License holders typically file 12 reports on an annual basis, which makes the reporting costs for individual businesses the following: (5 minutes x \$29.23/hour) x 12 reports per year = \$29.23 annually. Based on the number of commercial kelp harvesting licenses sold from 2014-2023 (Table 3), which allow for commercial take of giant kelp, bull kelp, agarweed, and edible seaweed, the mean average number of licenses is approximately 32. Applying the expected \$29.23 in annual reporting costs to all 32 expected license holders for a total annual reporting cost of \$935.36.

**Table 3: Total Number of Commercial Kelp Harvesting Licenses Sold**

Year	Total number of licenses
2014	31
2015	33
2016	31
2017	35
2018	35
2019	36
2020	32
2021	31
2022	30
2023	23

Source: California Department of Fish and Wildlife analysis of licenses sold.

5. Are there comparable Federal regulations? Answer: No

Explain the need for State regulation given the existence or absence of Federal regulations.



Answer: There are no comparable Federal regulations regarding kelp and other aquatic plants harvesting. Under the Marine Life Management Act, it is the policy of the state to ensure the conservation, sustainable use, and restoration of California's living marine resources for the benefit of all citizens of the state (Fish and Game Code Section 7050).

### **C. Estimated Benefits**

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment.

Answer: The adoption of these regulations is anticipated to benefit the state's environment in the sustainable management of this resource. The Commission anticipates benefits to the state's sustainable management of sea palm by specifying harvest methods for sea palm, employing a precautionary approach to remaining sea palm populations in the southern range of the species, requiring specific harvest location to better inform management decisions for sea palm populations targeted for harvest, improving the Department's knowledge of allowable marine algae harvest methods utilized, providing further clarification of license allowances, and updating outdated references.

There are some challenges in the monetization of much of the anticipated benefits of the proposed regulation because a portion of the intended outcomes are comprised of non-market traded ecosystem values.

No direct benefits to the health and welfare of California residents, or to worker safety are anticipated.

## **FISCAL IMPACT STATEMENT**

### **A. Fiscal Effect on Local Government**

Answer: 5. No fiscal impact.

The Commission anticipates that the proposed regulatory action will have no fiscal effect on any local government entity or program.

### **B. Fiscal Effect on State Government**

Answer: 3. No fiscal impact.

The Commission anticipates that the proposed regulatory action will have no fiscal effect on state government. The Department has determined that the proposed commercial harvest of sea palm action will not affect license or harvest royalty fee revenue or the Department's existing level of monitoring and enforcement activities.

Additionally, no other state agencies or programs would be affected by this regulatory action.

### **C. Fiscal Effect on Federal Funding of State Programs**

Answer: 3. No fiscal impact.

The proposed regulatory action will not have a fiscal effect on federal funding of state programs.



# Commercial Harvest of Kelp and Other Aquatic Plants

*February 12-13, 2025*

*Presented to:*

**Fish and Game Commission**

*Presented by:*

**Rebecca Flores Miller**

**Environmental Scientist  
Marine Region**



# Overview

- Sea palm and harvest regulation overview
- Recent outreach
- Commercial harvest data
- MARINe monitoring
- Species concerns
- Proposed amendments
- Proposed timeline



Photo Credit: R. Flores Miller



## Sea Palm (*Postelsia palmaeformis*)

- Annual species, upper-mid intertidal
- Limited dispersal (1-5 meters)
- Recreational take is prohibited
- Commercial harvest is allowed
  - No license, harvest, or seasonal limits or closures
  - Allowable methods include cutting, picking, and collection of drift or loose individuals
- Concerns due to existing regulations and potential range contraction



Photo Credit: R. Flores Miller





# Outreach and Engagement



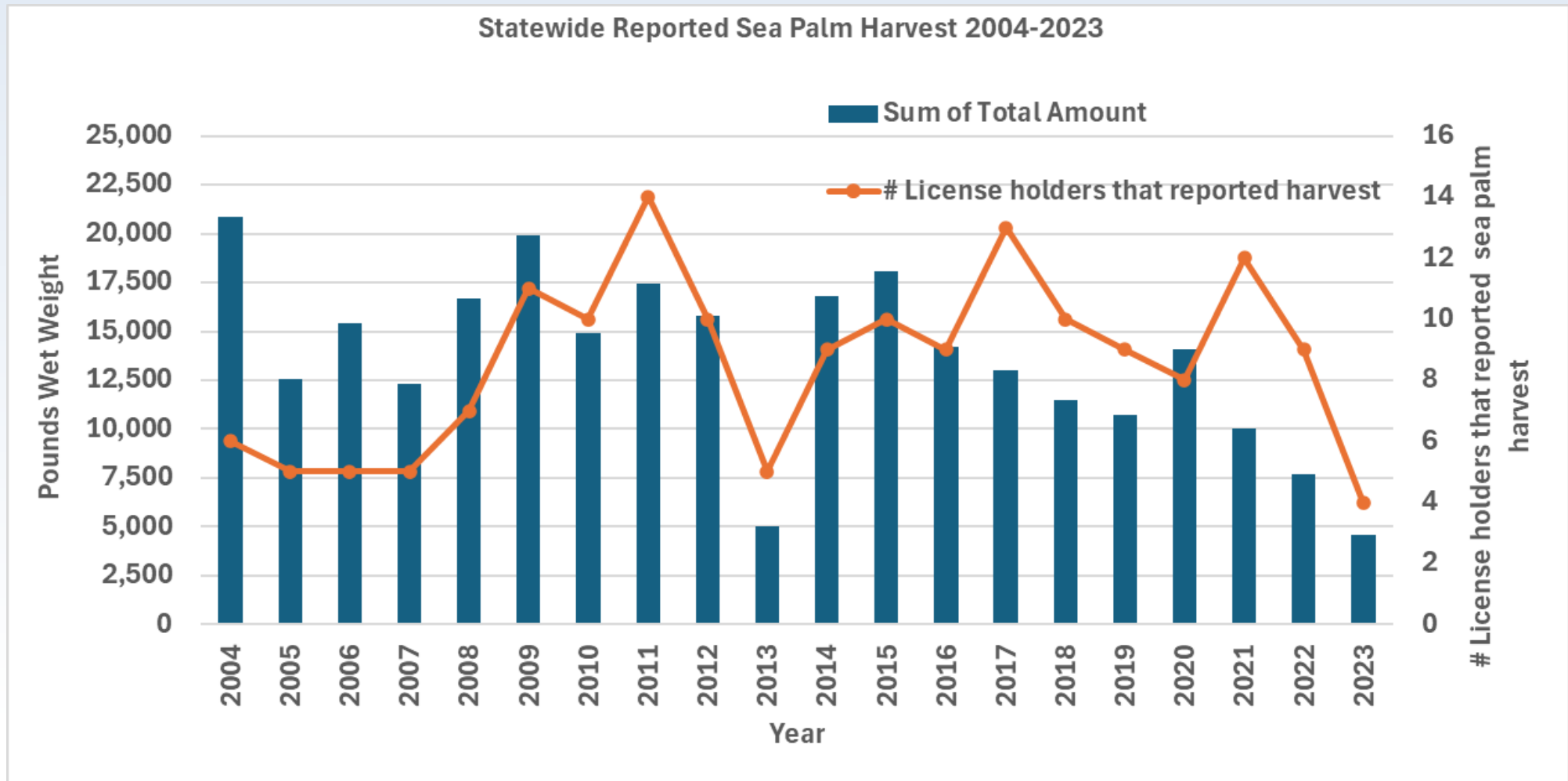
- Recent outreach and engagement (2022-present):
  - Site visits observing sea palm harvest
  - Sea palm harvester focused discussion meeting
  - Researcher discussions
  - Commission, Marine Resources Committee, and Tribal Committee meetings
  - Tribal notification
    - Comments from Tribes

Photo Credit: R. Flores Miller





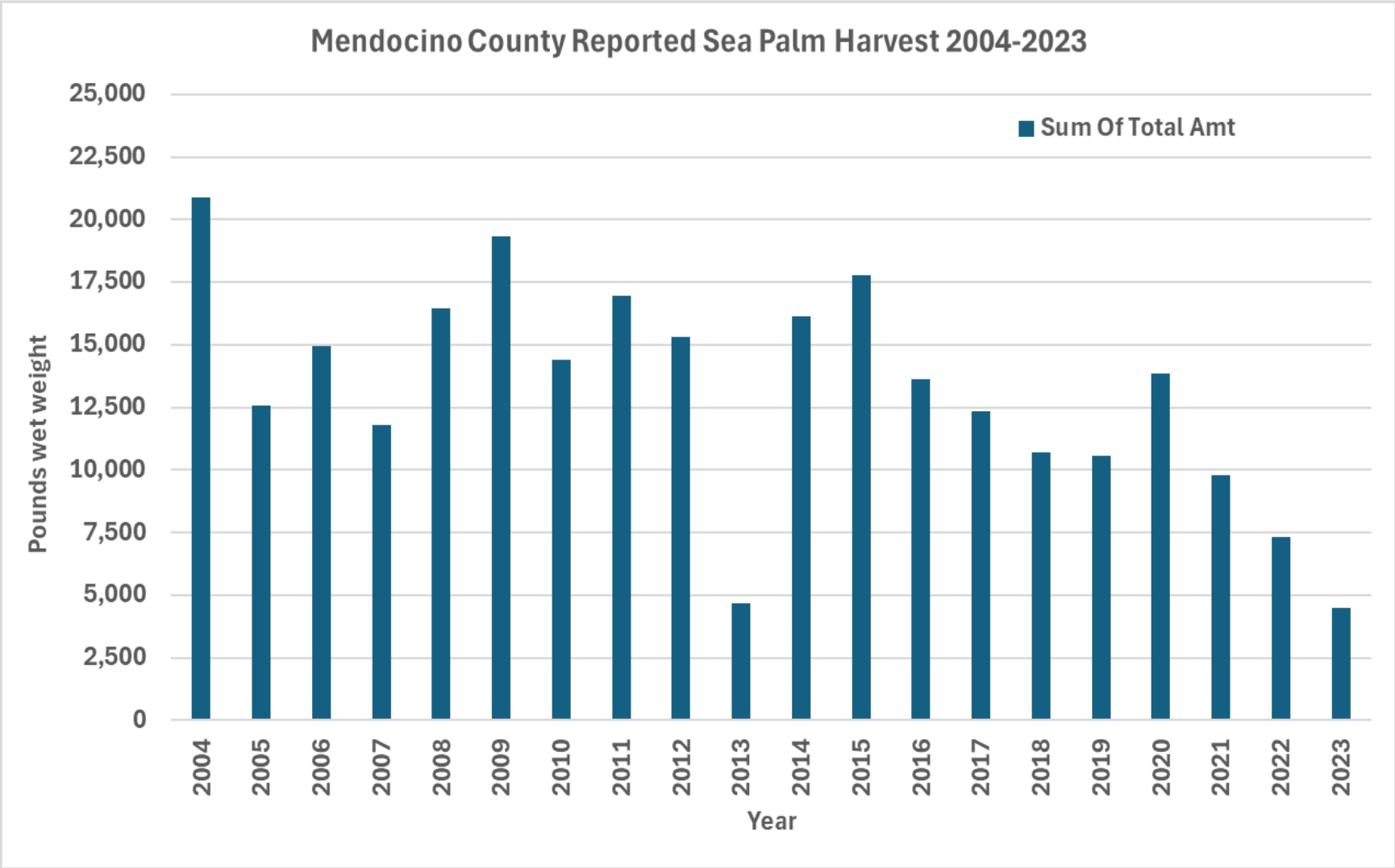
# Sea Palm Harvest – Statewide



Data source: CDFW Edible Seaweed/Agarweed Harvester's Monthly Reports



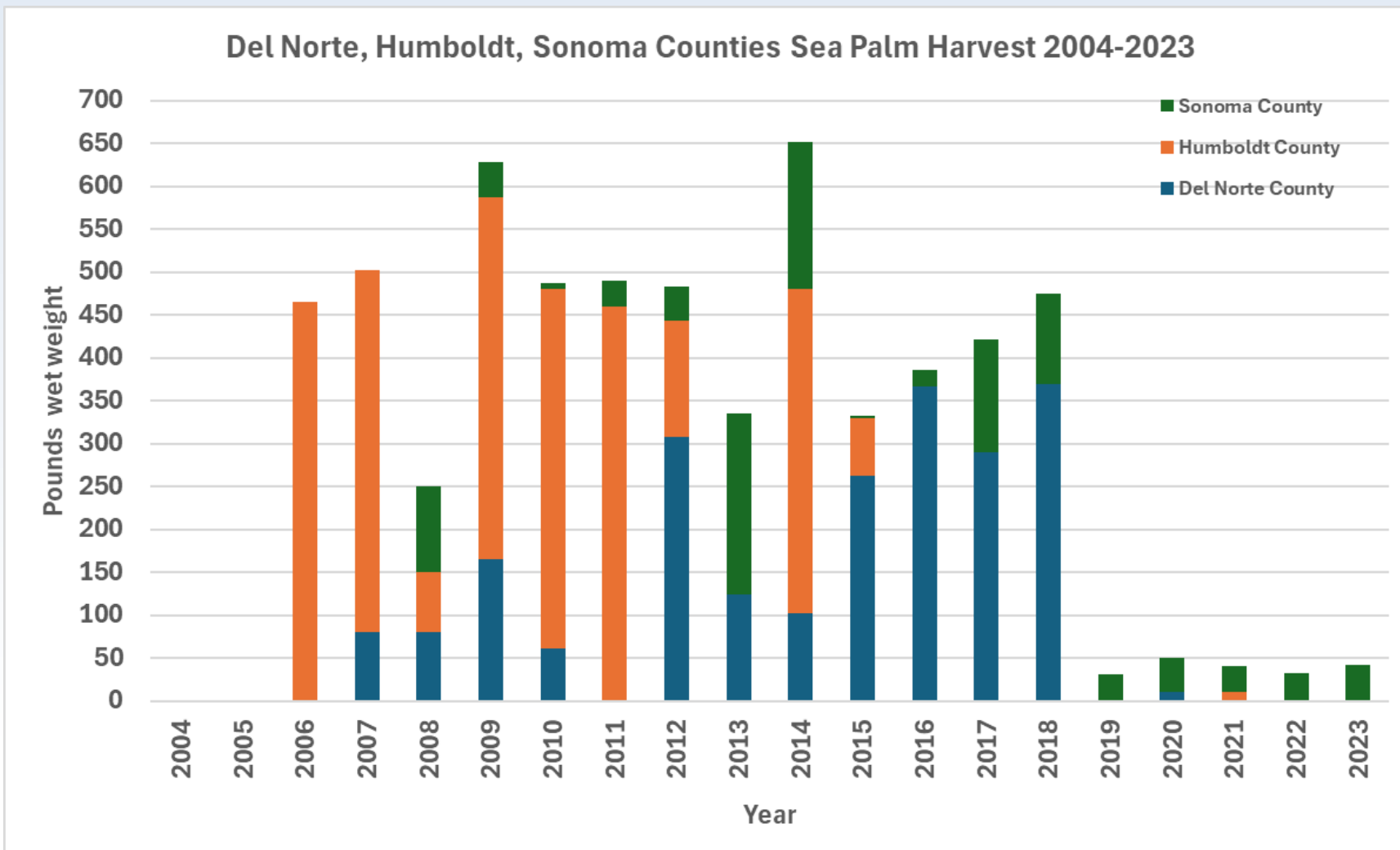
# Sea Palm Harvest – Mendocino County



Data source: CDFW Edible Seaweed/Agarweed Harvester’s Monthly Reports



# Sea Palm Harvest – Del Norte, Humboldt, Sonoma



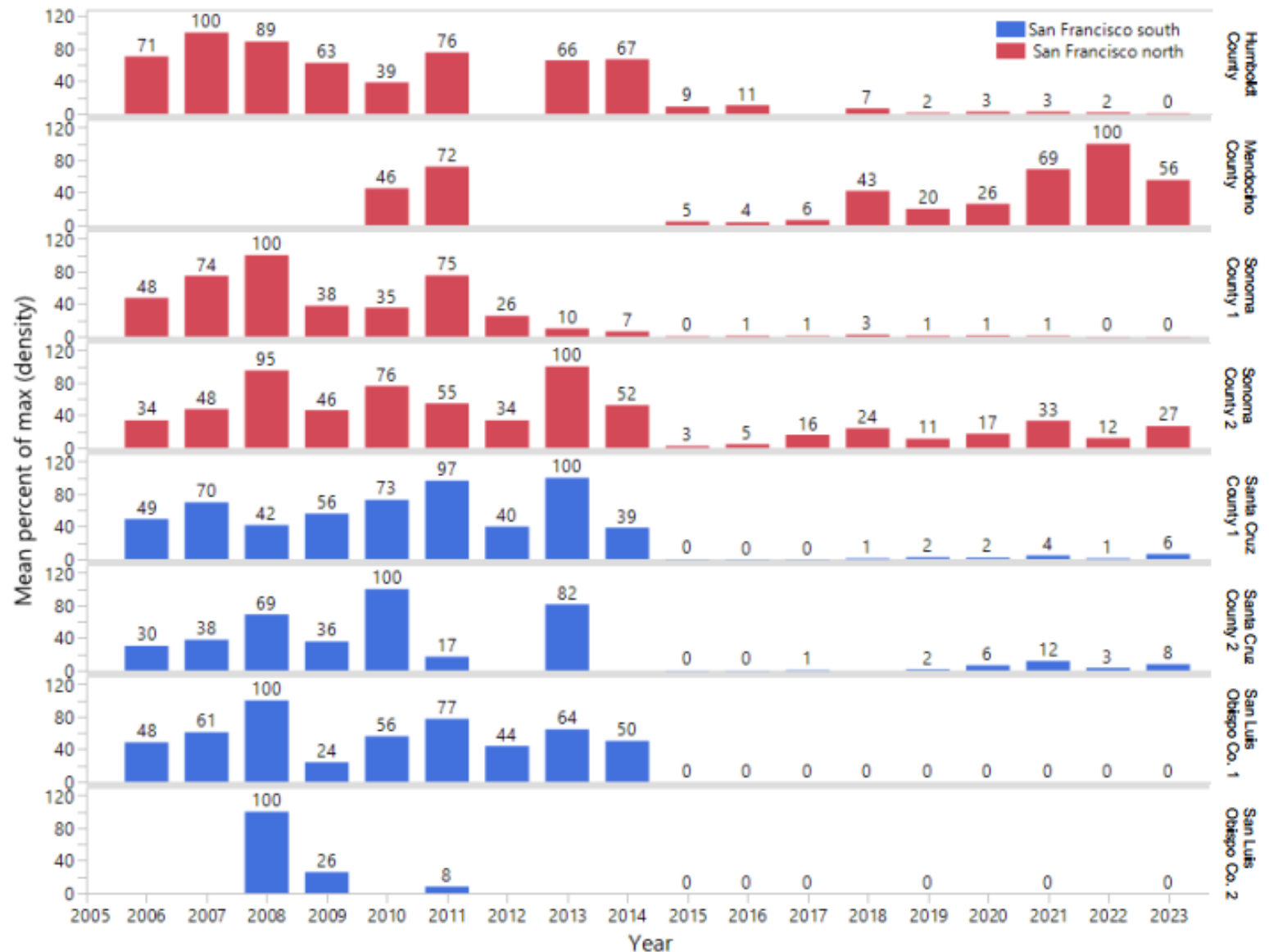
Data source: CDFW Edible Seaweed/Agarweed Harvester’s Monthly Reports



# Sea Palm Density Monitoring

- Drop in density after 2014
- Most loss in southern sites
- Slow recovery at most sites, esp. in southern range
- Lack of recovery at some sites

Figure source: Multi-Agency Rocky Intertidal Network (MARINE)





# Proposed Amendments to Sea Palm

- Define allowable harvest methods
- Incidental take of marine invertebrates is restricted
- Require central latitude/longitude coordinates of harvest location
- Prohibit harvest in the southern portion of range from Pigeon Point, San Mateo County (37° 11' north latitude) to the south



Photo Credit: R. Flores Miller





# Proposed Amendments - Marine Algae Reporting

- Day of harvest
- Specify if take is “drift” or “beached”
- Additional information on harvest effort



Photo Credit: R. Flores Miller



# Proposed Amendments Update, Clarify Reference

- License updates
- Clarify language/update outdated references
  - Clarify broodstock collecting permits for aquaculture
  - Replace outdated contact references
  - Update the location of informational maps
  - Update the location of monthly harvest reports
  - Refer to Fish and Game Code regarding license revocation





# Proposed Timeline

- Notice – February 2025 (Today)
- Discussion/Adoption – April 2025
- Anticipated Effective Date – Jan 2026  
– License effective upon filing



Photo Credit: R. Flores Miller

# Thank You

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