

State of California  
Fish and Game Commission  
Initial Statement of Reasons for Regulatory Action

Amend Sections 120.7 and 128, and Add Section 120.8  
Title 14, California Code of Regulations  
Re: Commercial Sea Urchin and Sea Cucumber Fishing

I. Date of Initial Statement of Reasons: February 18, 2025

II. Dates and Locations of Scheduled Hearing

(a) Notice Hearing

Date: February 13, 2025

Location: Sacramento, CA

(b) Discussion/Adoption Hearing:

Date: April 17, 2025

Location: Sacramento, CA

III. Description of Regulatory Action

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

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

The California Fish and Game Commission (Commission) proposes to amend Section 120.7, Title 14, CCR, regarding commercial sea urchin fishery regulations. The amendments will allow a person to accompany, perform minor duties with, and monitor the safety of, a licensed sea urchin diver, if the person has a commercial fishing license without a sea urchin permit. Additionally, a new Section 120.8 will move certain provisions from Section 120.7 to simplify existing sea urchin regulations. Further amendments include removing a seasonal Friday prohibition in the northern portion of the fishery, reducing the spatial size of a sea urchin closure at South Caspar Point, clarifying how sea urchins are measured, and adding an accountability provision to ensure that all participants on a joint sea urchin trip are accountable for any violation on board a vessel supporting the fishing operation. Non-substantive amendments to Section 128 and Commercial Dive Fishing Log (DFW 120.7) are also proposed.

**Background**

*Sea Urchin Fishery Seasonal Changes*

Current regulation allows for statewide red sea urchin (*Mesocentrotus franciscanus*) commercial take seven days a week from November through the end of May. For the remainder of the year (June 1 through October 31), red sea urchin regulations differ north and south of the Monterey-San Luis Obispo County line. The statewide fishery has gone through multiple changes in the fishing season, and in 2008, regulations were changed to align regulations in ocean waters north and south of the Monterey-San Luis Obispo county line. However, in 2017, regulations were modified in the south to allow one more fishing day (Friday open) from June through October. Thus, commercial take remained prohibited for the fishery north of the Monterey-San Luis Obispo county line Friday, Saturday, and Sunday from June through October.

Since implementation of the Friday regulation for the southern fishery in 2018, there have been no noticeable negative effects on the red sea urchin resource. Harvest effort has not increased appreciably but has merely shifted effort more equally to Friday from the other open days. Allowing the divers to harvest on Friday has increased other market opportunities by making product available for lucrative weekend markets and increased safety by providing an additional day to fish when weather conditions are more favorable. The northern fishery is requesting to remove the existing harvesting prohibition on Fridays to receive the same benefits currently afforded to the southern fishery (Commission Petition 2023-04).

During 2014 through 2016, statewide kelp canopies (both giant and bull kelp) suffered historical losses caused by unfavorable environmental conditions, which decimated the statewide red sea urchin fishery. This was even more apparent in Northern California, where kelp canopy was reduced by at least 90 percent. The loss of the primary food source for sea urchin caused a failure in the northern fishery, which resulted in a subsequent qualification for Federal Fishery Disaster Relief in 2016 through 2019.

#### *Sea Urchin Closure at South Caspar Point*

A sea urchin closure at South Caspar Point was created in the late 1980s to act as a refuge to replenish nearby fished populations and to study management effectiveness (a no-take control site) during at time of high sea urchin take. In 2012, the Marine Protected Area (MPA) network implementation and the establishment of the Point Cabrillo State Marine Reserve, which borders the current South Caspar Point Sea Urchin Closure to the south, protects all species including sea urchin.

Recreational fishing regulations for Caspar Cove were recently amended to allow the continuation of unlimited purple sea urchin harvesting until April 1, 2029, for kelp restoration purposes (Section 29.06, Office of Administrative Law's File ID #2024-0301-02S). Using recreational divers to cull urchins is currently being considered as an option to be included in the Kelp Restoration and Management Plan (KRMP).

#### **Current regulations**

Subsection 120.7(a)(1) requires any person assisting a sea urchin diver to have a sea urchin permit. Subsections 120.7(b)(1) and (2) specify two classes of sea urchin permits, which include a sea urchin diving permit, and a sea urchin crewmember permit. A sea urchin diving permit is a limited entry permit with access through a lottery system, and is the only permit that allows for the take and sale of sea urchin for commercial purposes. The sea urchin crewmember permit is an open access permit, and is required to assist a sea urchin diving permittee with commercial activities; however, sea urchin crewmember permittees may not dive from a vessel to harvest sea urchins. Sea urchin crewmembers must purchase both a crewmember permit and a commercial fishing license. Currently, an individual possessing only a commercial fishing license cannot assist a sea urchin diver.

Subsection 120.7(n) specifies that statewide commercial red sea urchin harvest is allowed seven days a week from November through the end of May, but prohibited on Friday, Saturday, and Sunday from June through October north of the Monterey-San Luis Obispo county line, and on Saturday and Sunday from June through October south of the same county line (subsections 120.7(n)(1) and (2), respectively).

Subsections 120.7(c) through (m) and (q) specify permit renewal procedures, number of permits, new permit application procedures, drawings for new permits, permit fee, renewal appeal procedures, vessel identification requirements, the prohibition of possession of lobsters and abalone aboard a vessel used to take sea urchins, conditions under which a permit may be revoked, exemption from possessing a tidal invertebrate permit, logbook requirements and authorization for an assistant for a sea urchin diving permittee who has become physically unable to dive.

Subsection 120.7(o) specifies closed areas, including subsection 120.7(o)(2) which specifies that the South Caspar Point area located in Mendocino County and just south of the city of Fort Bragg is closed to all commercial fishing for sea urchins (See Figure 1).

Finally, subsection 120.7(p) describes how a sea urchin should be measured by excluding the spines and any portion of the ball and socket (See Figure 2).

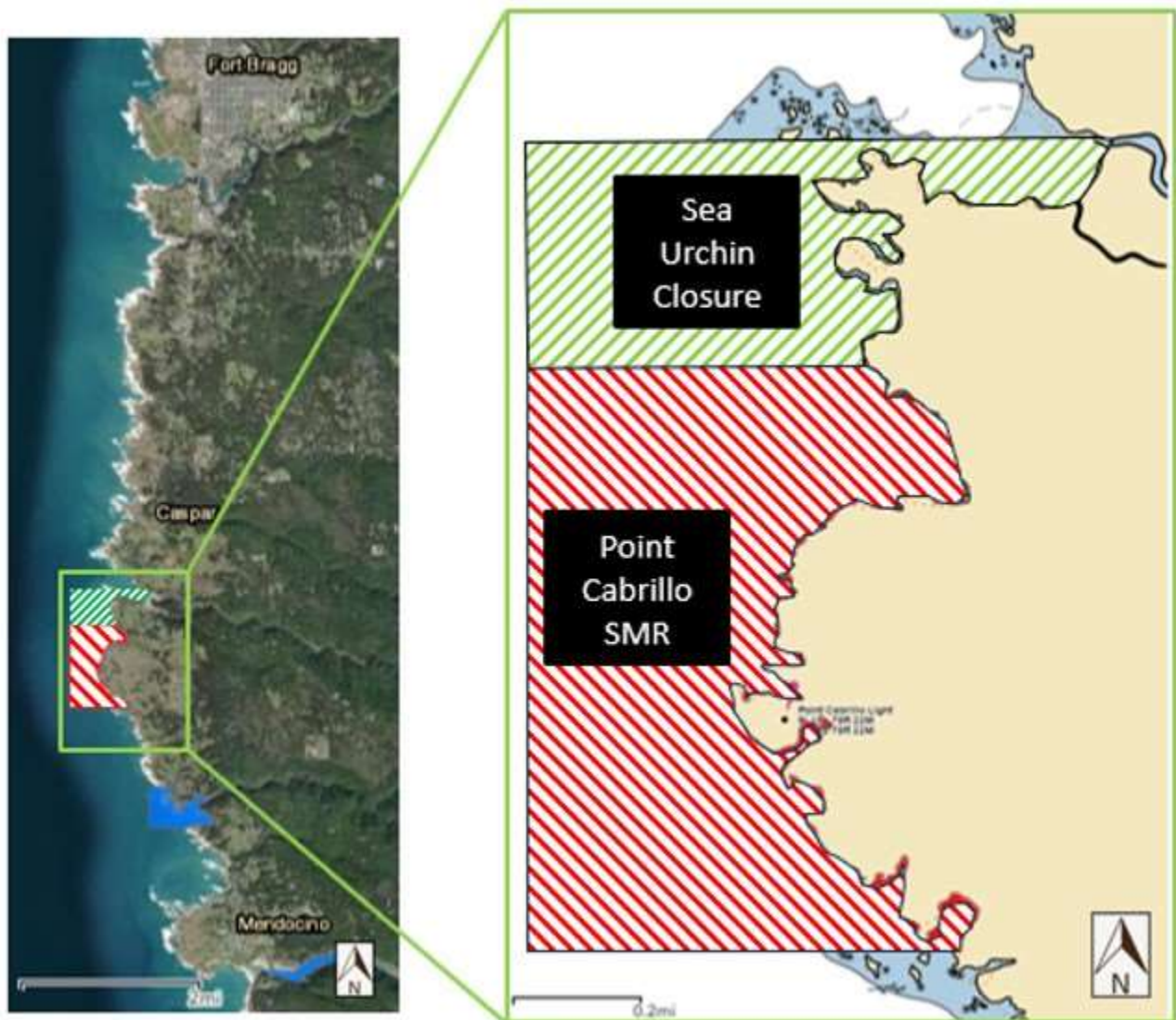


Figure 1. Current area of South Caspar Point Sea Urchin Closure (green striped area) and Point Cabrillo State Marine Reserve (red striped area).



Figure 2. Measuring the shell (test) width of a sea urchin, the ball-and-socket attachment, and an example of the irregularity of a sea urchin test.

Subsections 128(a) and (b) specify the warty sea cucumber closed season, require that any warty sea cucumber taken during the closed season be returned to the water, and prohibit the possession of warty sea cucumber aboard, or landing of warty sea cucumber from any commercial fishing vessel during the closed season.

Subsection 128(c) specifies that sea cucumber dive permit holders must complete and submit accurate records on the logbook form incorporated by reference under Section 120.7.

### Overview of Proposed Changes

The proposed amendments represent the cumulation of the California Department of Fish and Wildlife's (Department) internal discussions and incorporate input from the California Sea Urchin Commission (CSUC). The Nature Conservancy and Reef Check California were also consulted on the South Caspar Point closure to better understand their research activities at this location. Proposed amendments to sea urchin permits were also made to reflect new requirements under Fish and Game Code 9054.5 (Senate Bill 500, McGuire, 2023). Finally, the proposed changes are necessary to create more opportunities for the commercial sea urchin fishery.

The proposed actions are as follows:

1. Allow commercial fishermen to assist sea urchin divers

Existing regulations prohibit any person without a sea urchin permit from assisting a sea urchin diver while fishing. The proposed regulation would remove this restriction and allow anyone with a commercial fishing license to assist a sea urchin diver harvesting urchins.

2. Remove Friday prohibition in the north from June-October

The CSUC submitted a petition (Commission Petition 2023-04), requesting Fridays be re-opened to the northern commercial sea urchin fishery to allow for more favorable weather conditions, increased market opportunities, and more days to harvest red sea urchins.

3. Remove South Caspar Point sea urchin closure

The CSUC petition also requests to eliminate the sea urchin closure at South Caspar Point. The petition requested removal of the closure because it is no longer necessary due to adequate protections in the nearby marine protected areas, its elimination will not

result in a further loss in harvestable sea urchins, and sea urchin harvest will not interfere with ongoing kelp restoration activities.

4. Provide clarity to Section 120.7, and add new Section 120.8

Additional changes are proposed to improve clarity of existing regulations. Key items addressed in the proposed amendments include:

- Clarifying permitted activities under each type of sea urchin permit,
- Adding a new provision to ensure that all participants on a joint sea urchin trip are accountable for any violation on board a vessel assisting the fishing operation,
- Separating 120.7 into two sections to group regulations relating to permits in one section (120.7), and regulations that govern the fishery into another section (120.8), including clarifying how sea urchins should be measured.

5. Update Section 128, commercial take of sea cucumber, to reflect that the commercial dive fishing log will be incorporated by reference in new Section 120.8.

6. Update the commercial dive fishing log.

Additional changes are proposed to the structure of the regulations, making them easier to read and understand for the public. These changes, along with renumbering subsections, are non-substantive in nature.

### **Proposed Regulations**

The regulatory changes the Commission is proposing are described below.

#### *Amend Section 120.7.*

Change the title of the section to “Permits Required to Commercially Take Sea Urchins,” referring only to the permits needed for the commercial harvest sea urchins.

#### *Amend subsection 120.7(a) Permit Required.*

The first sentence of subsection 120.7(a)(1) is renumbered as 120.7(a) and amended. Since a new exception is added in proposed new subsection 120.7(a)(2) to allow non-permit holders to assist permitted sea urchin divers, the provision “assisting in the taking of” is proposed to be repealed. Additionally, the word “possession” is being added to conform with current management measures in other fisheries where a permit is required for both take and possession thereafter as an enforceability measure. Therefore, this subsection specifies that any person taking or possessing sea urchins for commercial purposes shall have a valid sea urchin permit and have that permit in possession.

A portion of the second sentence of subsection 120.7(a)(1) “A sea urchin diving permit is not required to operate or assist in operating a vessel used to take sea urchins” is moved to subsection 120.7(a)(2)(B) and revised to state that a sea urchin diving or crewmember permit is not required to operate or assist in operating a vessel used to take sea urchins. The addition of “crewmember permit” is added for clarity and consistency with proposed new subsection 120.7(a)(2).

That portion of the second sentence of subsection 120.7(a)(1) “no person without a valid sea urchin diving permit shall engage in diving from a vessel from which sea urchins are

being taken or possessed for commercial purposes” is moved with amendment to subsection 120.7(a)(1)(A)ii.

The last part of the text in subsection 120.7(a)(1) which reads, “unless authorized by the department’s marine region regional manager or his or her designee for the purposes of sea urchin management or research” is repealed. It is necessary to remove this language completely from Section 120.7 as any management changes or research can be authorized through existing regulatory provisions such as a Scientific Collecting Permit (Section 650) or an Experimental Fishing Permit (Section 91).

*Renumber subsection 120.7(a)(2) as (j).*

This provision is moved to a new location.

*Add subsection 120.7(a)(1) Classes of Permits.*

This subsection now clearly defines the types (classes) of permits, which is necessary to improve the public’s understanding of what is required and/or prohibited while commercially fishing sea urchins.

*Add subsection 120.7(a)(1)(A) Sea Urchin Diving Permit.*

Subsection 120.7(a)(1)(A)i. Provisions are moved from the current subsection 120.7(b)(1) with amendment that specify that commercial fishermen who have qualified for permits pursuant to renumbered subsections 120.7(d) and (e) may be issued a sea urchin diving permit, and stipulates that this is the only permit that can be obtained to take and land sea urchins for commercial purposes. The age limit requirement of “must be 16 years or older” for this permit is proposed to be repealed as it’s redundant with the same age limit requirement for obtaining a commercial fishing license specified in Section 7852 of the California Fish and Game Code. A commercial fishing license is required to obtain a sea urchin diving permit.

Subsection 120.7(a)(1)(A)ii. Text from subsection 120.7(a)(1) is moved to this subsection, with amendment for clarity, to ensure that only a person with a valid sea urchin diving permit can enter the water at any time, primarily for enforcement of urchin harvest. This change is necessary to clarify the prohibition of any assistants or crewmembers who are helping on the vessel from also entering the water to reduce over harvesting of the population and ensure a one-to-one ratio of divers in the water to sea urchin diving permits issued to better manage the fishery.

*Add subsection 120.7(a)(1)(B) Sea Urchin Crewmember Permit.*

This provision is modified from the existing subsection 120.7(b)(2) to clarify that a person holding a sea urchin crewmember permit may only assist a sea urchin diving permittee during fishing operations. Additional text is added to clarify that a crewmember permittee may qualify for a sea urchin diving permit. The age limit requirement of “must be 16 years or older” for this permit is proposed to be repealed as it’s redundant with the same age limit requirement for obtaining a commercial fishing license. A commercial fishing license is required to obtain a sea urchin crewmember permit. Pursuant to subsection 120.7(a)(1)(A)ii., a crewmember permittee is not authorized to enter the water during a trip where sea urchins are being taken or possessed from commercial purposes

*Add subsection 120.7(a)(2) Exceptions.*

This new subsection is added to group all the exceptions to possessing a commercial sea urchin permit into one subsection.

*Add subsection 120.7(a)(2)(A).*

The new provisions in this subsection specify that individuals with a commercial fishing license are not required to obtain a sea urchin crewmember permit to assist a sea urchin diver in taking sea urchins. This provision is necessary to allow non-permitted persons to participate in the fishery to improve recruitment and safety. Additionally, allowing commercial fishermen to assist divers would align with the other major dive fishery, sea cucumber, which does not require a crewmember permit for diver assistance. This change would provide consistency across both fisheries. The only difference between fishermen assisting under this provision and those with a sea urchin crewmember permit is the non-permitted fishermen do not qualify for a sea urchin diving permit as described in subsections 120.7(d) and (e). Pursuant to subsection 120.7(a)(1)(A)ii., a licensed commercial fisherman assisting a sea urchin dive permittee under this provision is not authorized to enter the water during a trip where sea urchins are being taken or possessed from commercial purposes.

*Add subsection 120.7(a)(2)(B).*

This provision is moved from the second sentence of current subsection 120.7(a)(1) and amended to specify that neither a diving nor crewmember permit is required to operate a vessel used to take sea urchins.

*Add subsection 120.7(a)(2)(C).*

The current subsection 120.7(l) has been moved here and renumbered. The words "Exemption from Tidal Invertebrate Permit" are removed for consistency with the language structure of each paragraph of subsection 120.7(a)(2).

*Add subsection 120.7(a)(3).*

This addition makes clear that any person without a sea urchin diving permit or sea urchin crewmember permit would not qualify for a new sea urchin diving permit, nor would any of the persons operating under subsection 120.7(a)(2) qualify for preference points in the sea urchin lottery which is used to issue new sea urchin diving permits.

*Add subsection 120.7(a)(4).*

Specific language is added to address accountability on a sea urchin fishing vessel when multiple permittees are mixing their catch on the vessel. This provision clarifies that together all permittees, assistants, and anyone who should possess a permit who are working together on the vessel must adhere to the regulations and are responsible for all violations.

*Renumber subsections 120.7(b)(1) and (2).*

These provisions have been moved whole or in part to subsection 120.7(a) and modified as described above.



*Renumber subsections 120.7(c) through (h) as (b) through (g).* The date range in subsection (b)(1) is changed from a dash (-) to “through” for consistency with accessibility guidelines. The word “subsection” was corrected to “subdivision” in renumbered subsection 120.7(c)(3) to correct terminology used in the California Fish and Game Code. In renumbered subsection 120.7(e)(13), a grammar correction was made to change “...commercial fishermen that...” to “...commercial fishermen who...”.

*Renumber subsections (i) and (j).*

These provisions are moved to the new Section 120.8.

*Renumber subsection 120.7(k) as (h), without change.*

*Renumber subsection 120.7(l) as subsection (a)(2)(C), with a non-substantive amendment as described above.*

*Renumber subsection 120.7(m).*

These provisions are moved to the new Section 120.8, with a non-substantive amendment as described below.

*Renumber current subsections 120.7(n), (o), and (p).*

These provisions are moved to the new Section 120.8 and modified.

*Renumber subsection 120.7(q) as (i).*

This subsection is renumbered with minor amendment. The word “assistant” is being replaced by the word “designee” throughout this subsection, as this is a more accurate way to portray the fishermen chosen by a sea urchin diving permittee as their replacement should a medical emergency occur. Additionally, this change alleviates any confusion with those commercial fishermen assisting a sea urchin diver either through a sea urchin crewmember permit, or through the exception added allowing any licensed commercial fishermen to assist a sea urchin diver. In addition, “his or her” is replaced with the gender-neutral term “their.” These changes are non-substantive.

*Add subsection 120.7(j).*

This provision was moved from subsection 120.7(a)(2), and amended to replace “his or her” with the gender-neutral term “their.”

*Authority and reference citations are proposed to be amended to reflect the splitting of Section 120.7 into two separate sections, leaving only those citations related to permits.*

### ***Add Section 120.8 Taking of Sea Urchin for Commercial Purposes***

The regulations in new Section 120.8 describe the requirements for the operation of the sea urchin fishery. Those requirements related to permits will be retained in Section 120.7. The requirements within the current 120.7 pertaining to how the fishery operates will be moved to Section 120.8. Separating permitting regulations and fishery operation regulations will improve the clarity of the regulations.



*Add subsection 120.8(a) Fishing Season.*

*Add subsection 120.8(a)(1).*

Subsections 120.7(n)(1) through (3) are moved to subsection 120.8(a)(1) and amended to remove Friday from the June through October seasonal closure north of the Monterey-San Luis Obispo county line. This change would make the seasonal closure consistent with the fishery south of the Monterey-San Luis Obispo county line, leaving a statewide seasonal closure in place. Allowing harvest on Friday would give the fleet one more day (approximately 21 days per year from June through October) to take red sea urchin, which would benefit the fleet. The extended fishing week would provide more flexibility in selecting dive days with safer ocean conditions. The current closures for the red sea urchin fishery were instituted in 1993 to curb resource depletion and did not account for evolving market dynamics. Given the current capacity reduction framework and historically low sea urchin landings in the last ten years, keeping Friday closed is not necessary for effort reduction or resource concerns. In addition, the scientific name of red sea urchin is added for clarity.

*Add subsection 120.8(a)(2).*

This subsection clarifies that all other species of sea urchin remain open all year without closures. Existing regulations are silent on the season for all other species of urchins, except red urchin. This addition provides more clarity to the public that other sea urchins may be harvested year-round pursuant to Section 8140 of the California Fish and Game Code.

*Add subsection 120.8(b). Closed Areas.*

*Add subsection 120.8(b)(1). South Caspar Point.*

Subsection 120.7(o) is moved to subsection 120.8(b) and amended. The new South Casper Point closure area would be bounded by the mean high tide line and a straight line connecting the two boundaries. This change reduces the closed area (indicated as green in Figure 3) of the South Caspar Point Sea Urchin Closure and reopens the remaining area to commercial sea urchin fishing as indicated in Figure 3. The closed area would be reduced by 89 percent, greatly increasing the area that divers can commercially harvest sea urchin while avoiding a disruption in data collections from purple sea urchin removals assisting in the development of the KRMP.

This closure is also no longer necessary to protect standing stock of the urchin population due to the implementation of California's Statewide MPA network in 2012, which includes the adjacent Point Cabrillo State Marine Reserve. Moreover, recreational take of sea urchin is allowed in the area, which reduces any protections established by the commercial sea urchin closure.

This newly established closure area will remain closed until April 2, 2029, which is one day after the sunset date of a provision that exempts recreational fishermen from the purple sea urchin recreational bag limit within a defined area in this cove as specified in Section 29.06. The one-day delay will ensure that the two dates are not overlapping and eliminate any conflict.

The proposed amendment also removes text in current subsection 120.7(o)(1) and the sentence “The Point Cabrillo State Marine Conservation Area remains closed to the take of all forms of marine life except as permitted in subsection 632(b)”, included in the current subsection 120.7(o)(2). Elimination of this text is necessary as it is duplicative with regulations overseeing MPAs found in Section 632.

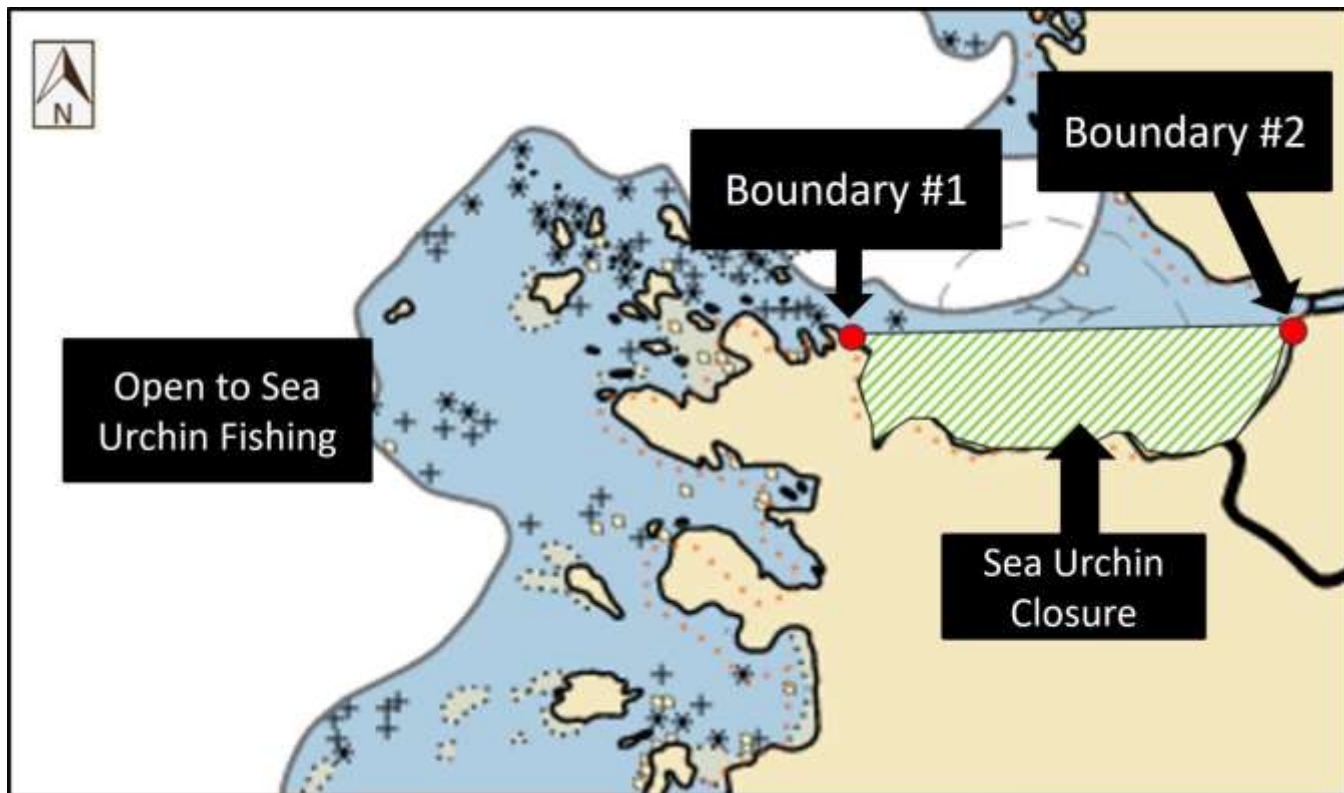


Figure 3. Proposed boundaries of South Caspar Point Sea Urchin Closure (green striped area).

*Add subsection 120.8(c). Size Limits.*

Subsection 120.8(c) defines how the sea urchins should be measured. The proposed regulation specifies that sea urchin shall be measured using the greatest shell diameter to avoid confusion about which part of the shell is used in the size restrictions since a sea urchin shell does not have a uniform shape (See Figure 2). Commercial red sea urchin regulations for Oregon and Washington use the words “largest” and “greatest”, respectively, when describing how to gauge the shell of red sea urchins, so this change would be consistent with other states.

*Add subsection 120.8(c)(1)(A).*

Subsection 120.7(p)(1) is moved to this subsection and amended to remove the words “In southern California” to reduce redundancy in the text, since the description of the boundary line describes which region of the state the size limit applies to (i.e., south of the Monterey-San Luis Obispo county line). Additionally, the text “or any portion of their ball-and-socket attachment to the shell” was also removed, as it is an ambiguous way to measure the urchin. Removing the reference to the spines’ ball and socket attachment will make it easier for enforcement and the urchin fishermen to measure an urchin’s diameter. Text relating to

shell diameter and text stating “not including the spines” has been moved to new subsection 120.8(c). The proposed regulation also replaces text stating “between one and one-half (1 ½) and three and one-quarter (3 ¼) inches” with text stating “greater than one and one-half (1 ½) and less than three and one-quarter (3 ¼) inches” and replaces “per load” with “per load or lot” for clarity since both are commonly used to describe offloading sea urchin catch.

*Add subsection 120.8(c)(1)(B).*

Subsection 120.7(p)(2) is moved to this subsection and amended to remove the words “In northern California” to reduce redundancy in the text, since the description of the boundary line describes which region of the state the size limit applies to (i.e., north of the Monterey-San Luis Obispo county line”). Additionally, the text “or any portion of their ball-and-socket attachment to the shell” was also removed, as it is an ambiguous way to measure the urchin. Removing the reference to the spines’ ball and socket attachment will make it easier for enforcement and the urchin fishermen to measure an urchin’s diameter. Text relating to shell diameter and text stating “not including the spines” has been moved to new subsection 120.8(c). The proposed regulation also replaces text stating “between one and one-half (1 ½) and three and one-half (3 ½) inches” with text stating “greater than one and one-half (1 ½) and less than three and one-half (3 1/2) inches” and replaces “per load” with “per load or lot” for clarity.

*Add subsection 120.8(c)(2).*

This addition is necessary to clarify that there is no size limit on all other sea urchins taken commercially, excluding red sea urchins. Although “no size limit” is not explicitly described in the existing text, there is currently no size limit prescribed for other sea urchins in regulation or statute. There has not been any evidence presented that size limits are necessary to manage all other species of urchins in order to protect their populations.

*Add subsection 120.8(c)(3).*

Subsection 120.7(p)(3) is moved to this subsection and amended to delete text stating “as specified herein, while diving for sea urchins for commercial purposes.” to remove extraneous language. A comma is removed to correct a punctuation error.

*Add subsection 120.8(d). Vessel Identification.*

Subsection 120.7(i) is moved to this subsection without change.

*Add subsection 120.8(e).*

Subsection 120.7(j)(1) is moved to this subsection and amended to add a title of “Lobster Prohibition” and to remove “abalone”. The take of abalone is already prohibited recreationally and commercially pursuant to sections 29.15 and 100, respectively.

*Add subsection 120.8(f).*

Subsection 120.7(j)(2) is moved to this subsection without change except to add a title of “Lift Conditions.”

*Add subsection 120.8(g).*

Subsection 120.7(m) is moved to this subsection and amended to update the reference to the commercial dive fishing log to reflect the proposed new form number (DFW 120.8) and revision date (04/2025).

***Amend Section 128 Commercial Taking of Sea Cucumber***

Subsection 128(c) is revised to update the reference to the location of the commercial dive fishing log to reflect its proposed incorporation by reference in Section 120.8.

***Amend Commercial Dive Fishing Log (DFW 120.7)***

The commercial dive fishing log is amended to update the form number to DFW 120.8, update the revision date to 04/2025, provide separate fields for “port” and “dealer”, add instructions for requesting new logbooks, update example of completed form, and other minor edits.

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

It is the policy of this State to ensure the conservation, sustainable use, and, where feasible, restoration of California’s marine living resources for the benefit of all the citizens of the State. The objectives of this policy include, but are not limited to, conserving the health and diversity of marine ecosystems and marine living resources; allowing and encouraging only those activities and uses of living marine resources that are sustainable; and recognizing the importance to the economy and the culture of California of sustainable sport and commercial fisheries.

The proposed regulations allow and encourage activities and uses of sea urchin that are sustainable and recognize the importance to the economy and culture of California of a sustainable commercial sea urchin fishery. Allowing an individual with a commercial fishing license to assist a permitted diver harvesting sea urchins will increase safety during fishing operations and provide opportunities for interested persons to participate in the fishery without the commitment of purchasing a permit. The sea urchin fishery will also benefit from increased opportunities to fish by removing a sea urchin closure area adjacent to Caspar Cove and removing Fridays as a prohibited fishing day during the June through October in the north without jeopardizing the sustainability of the sea urchin resource. Opening Fridays in the north also provides increased opportunities to the northern fishery and aligns regulations with the south.

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

**Section 120.7**

Authority: Sections 9054 and 9054.5, Fish and Game Code

Reference: Sections 713, 1050, 7850, 7857, 8500, 9054, 9054.5 and 9055, Fish and Game Code

**Section 120.8**

Authority: Sections 7880, 8026 and 9054, Fish and Game Code.

Reference: Sections 7880, 8026, 8140 and 9054, Fish and Game Code.

## Section 128

Authority: Section 8405.3, Fish and Game Code.

Reference: Sections 8026, 8405.1, 8405.3 and 8500, Fish and Game Code.

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

(e) Identification of Reports or Documents Assisting Regulation Change

- Petition to the California Fish and Game Commission for Regulation Change (2023-04) requested by David Goldenberg, Executive Director, California Sea Urchin Commission.

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

- March 19, 2024, Marine Resources Committee meeting.
- July 18, 2024, Marine Resources Committee meeting.

### IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change:

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

(b) No Change Alternative

Without the proposed changes, the outstanding issues concerning the regulations currently governing commercial sea urchin would remain unaddressed. This would mean that licensed commercial fishermen would still need a permit to assist a sea urchin diver harvesting urchins, Friday in the north would remain closed during June through October, the South Caspar Point Sea Urchin Closure would remain in effect, and some of the subsections in this regulation would remain confusing and unclear.

### 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 as the proposed regulations impose no fees or costs and do not require further actions from any businesses that would incur indirect costs.

- (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 impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. The Commission does not anticipate any benefits to the health and welfare of California residents, though there may be some benefits to commercial sea urchin worker safety by allowing Fridays to be available to the northern commercial sea urchin fishery to allow for more good weather options. Additionally, allowing an individual with a commercial fishing license to assist a permitted diver harvesting sea urchins will increase safety during fishing operations. The Commission anticipates benefits to the State's environment by sustainably managing California's sea urchin fishery resources.

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

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action as it imposes no new fees or costs.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

- (e) Nondiscretionary Costs/Savings to Local Agencies: None

- (f) Programs Mandated on Local Agencies or School Districts: None

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None

- (h) Effect on Housing Costs: None

## VII. Economic Impact Assessment

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

The cumulative effects of the proposed regulations are expected to be neutral with regard to the creation or elimination of jobs within the State.

- (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 proposed regulations are expected to be neutral about the creation or elimination of businesses within the State.

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

The cumulative effects of the proposed regulations are expected to be neutral about the expansion of businesses within the State.

- (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 anticipates that there may be some benefits from the regulation to worker safety. Allowing Fridays to be available to the northern commercial sea urchin fishery to allow for more good weather options may reduce the risk of fishing in adverse weather conditions, and allowing an individual with a commercial fishing license to assist a permitted diver harvesting sea urchins will increase safety during fishing operations.

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

The Commission anticipates benefits to the State's environment by sustainably managing California's sea urchin fishery resources.

(g) Other Benefits of the Regulation

None.



## **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 California Fish and Game Commission (Commission) proposes to amend Section 120.7 Taking of Sea Urchins for Commercial Purposes and Section 128 Commercial Taking of Sea Cucumber.

### **Background**

Current regulations in Section 120.7 specify commercial sea urchin fishery regulations.

Subsection 120.7(a) specifies that any person taking or assisting in taking sea urchin for commercial purposes must possess a valid sea urchin permit. Only persons with a valid sea urchin diving permit may dive from a vessel to harvest sea urchins. An individual possessing only a commercial fishing license cannot assist a sea urchin diver. This subsection also includes a provision which allows the California Department of Fish and Wildlife (Department) to authorize the holder of a valid sea urchin diving permit to harvest red sea urchins during a closed season or in a closed area for the purposes of cooperative sea urchin management and research activity.

Subsection 120.7(b) specifies two classes of sea urchin permits: a sea urchin diving permit and a sea urchin crewmember permit. A sea urchin diving permit is a limited entry permit with access through a lottery system and is the only permit that allows for the take and sale of sea urchin for commercial purposes. The sea urchin crewmember permit is an open access permit and is required to assist a sea urchin diving permittee with commercial activities.

Subsections 120.7(c) through (m) specify permit renewal procedures, number of permits, new permit application procedures, drawings for new permits, permit fee, renewal appeal procedures, vessel identification requirements, the prohibition of possession of lobsters and abalone aboard a vessel used to take sea urchins, conditions under which a permit may be revoked, exemption from possessing a tidal invertebrate permit, and logbook requirements.

Subsection 120.7(n) specifies that statewide commercial red sea urchin harvest is allowed seven days a week from November through the end of May, but prohibited on Friday, Saturday, and Sunday from June through October north of the Monterey-San Luis Obispo county line, and on Saturday and Sunday from June through October south of the same county line.

Subsection 120.7(o) specifies closed areas, including South Caspar Point, located in Mendocino County, which is closed to all commercial fishing for sea urchins.

Subsection 120.7(p) describes how a sea urchin should be measured by excluding the spines and any portion of the ball and socket.

Subsection 120.7(q) authorizes an assistant for a sea urchin diving permittee who has become physically unable to dive.

Current regulations in Section 128 specify commercial sea cucumber regulations.

Subsections 128(a) and (b) specify the warty sea cucumber closed season, require that any warty sea cucumber taken during the closed season be returned to the water, and prohibit the possession of warty sea cucumber aboard, or landing of warty sea cucumber from any commercial fishing vessel during the closed season.

Subsection 128(c) specifies that sea cucumber dive permit holders must complete and submit accurate records on the logbook form incorporated by reference under Section 120.7.

### **Proposed Changes to the Regulations**

The section title will be changed to “120.7 Permits Used to Commercially Take Sea Urchins”, consolidating the requirements and conditions for various permits needed for the commercial harvest of sea urchins. Additionally, a new Section 120.8 Taking of Sea Urchin for Commercial Purposes will be added consolidating the conditions for the operation of the sea urchin fishery.

The amendments to 120.7 will:

- Clearly define the permitted activities of each type (class) of sea urchin permit and consolidate each subsection related to permit and permits issuance.
- Allow licensed fishermen to accompany and assist a sea urchin diving permittee during a fishing trip while providing additional safety to that diver. The assisting fishermen is required to have in possession a commercial fishing license, however, the limited assistance does not require a sea urchin permit. The goal is to increase the availability of fishermen for hire and to increase safety on fishing trips when the sea urchin diving permittee is alone. The only difference between fishermen assisting under this provision and those with a sea urchin crewmember permit is the non-permitted fishermen do not qualify for a sea urchin diving permit nor qualify for preference points in the sea urchin lottery which is used to issue new sea urchin diving permits.
- Add a new provision to ensure that all participants on a joint sea urchin trip are accountable for any violation on board a vessel assisting the fishing operation.
- Revise the language concerning an “assistant” for a sea urchin diving permittee who has become physically unable to dive, by changing “assistant” to “designee” to differentiate this from others who assist sea urchin divers.

The addition of 120.8 will:

- Allow the harvest of red sea urchin on Fridays north of the Monterey-San Luis Obispo county line from June through October.
- Greatly reduce the size of the South Caspar Point Sea Urchin Closure and eliminate the entire closure after April 1, 2029.
- Repeal language related to commercial take of sea urchins in marine protected areas.
- Clarify that there are no size limits or seasonal closures for all other species of sea urchin, other than red sea urchin.
- Specify how sea urchins should be measured and clarify language regarding the red sea urchin size limit.
- Update the reference to the commercial dive fishing log to reflect the proposed new form number and revision date.

The amendment to Section 128 will revise the reference to the location of the commercial dive fishing log to reflect its proposed incorporation by reference in Section 120.8.

The proposed amendments to the commercial dive fishing log (DFW 120.7) will update form number to DFW 120.8, update the revision date, provide separate fields for “port” and “dealer”, add instructions for requesting new logbooks, update example of completed form, and other minor edits.

Minor editorial changes are proposed to improve the clarity and consistency of the regulations, correct formatting, grammar and punctuation, and to conform to accessibility guidelines.

**Benefit of the Regulations:**

It is the policy of this State to ensure the conservation, sustainable use, and, where feasible, restoration of California’s marine living resources for the benefit of all the citizens of the State. The objectives of this policy include, but are not limited to, conserving the health and diversity of marine ecosystems and marine living resources; allowing and encouraging only those activities and uses of living marine resources that are sustainable; and recognizing the importance to the economy and the culture of California of sustainable sport and commercial fisheries.

The proposed regulations allow and encourage activities and uses of sea urchin that are sustainable and recognize the importance to the economy and culture of California of sustainable commercial sea urchin fishery. Allowing an individual with a commercial fishing license to assist a permitted diver harvesting sea urchins will increase safety during fishing operations and provide opportunities for interested persons to participate in the fishery without the commitment of purchasing a permit. The sea urchin fishery will also benefit from increased opportunities to fish by removing a sea urchin closure area adjacent to Caspar Cove and removing Fridays as a prohibited fishing day during June through October in the north without jeopardizing the sustainability of the sea urchin resource. Opening Fridays in the north also provides increased opportunities to the northern fishery and aligns regulations with the south.

**Consistency and Compatibility with Existing Regulations:**

The proposed regulations 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 commercial take of sea urchin. No other state agency has the authority to adopt such regulations. The Commission has searched the CCR for any regulations regarding commercial sea urchin fishing; therefore, the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.