

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.

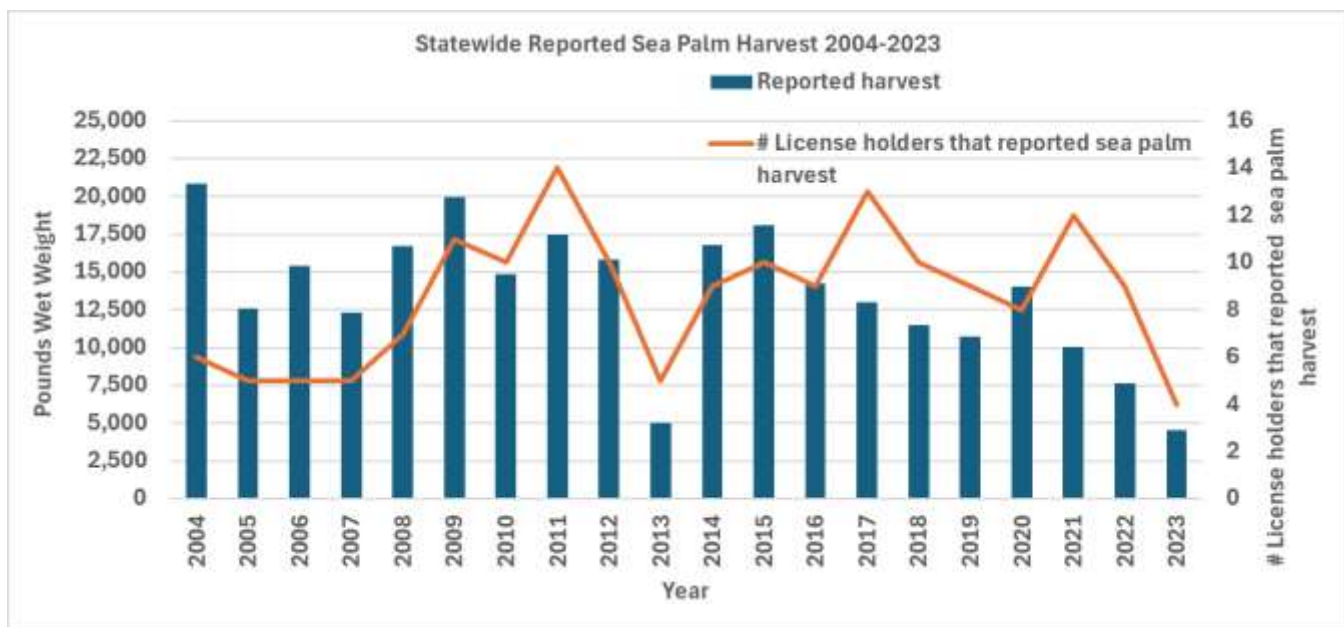


Figure 1. Annual statewide reported commercial sea palm harvest, 2004-2023. The axis on the left is harvest pounds wet weight as indicated by the bars and right axis depicts the number of harvesters who reported sea palm harvest during the year, as visualized in the line. Years 2013 and 2023 may not 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).

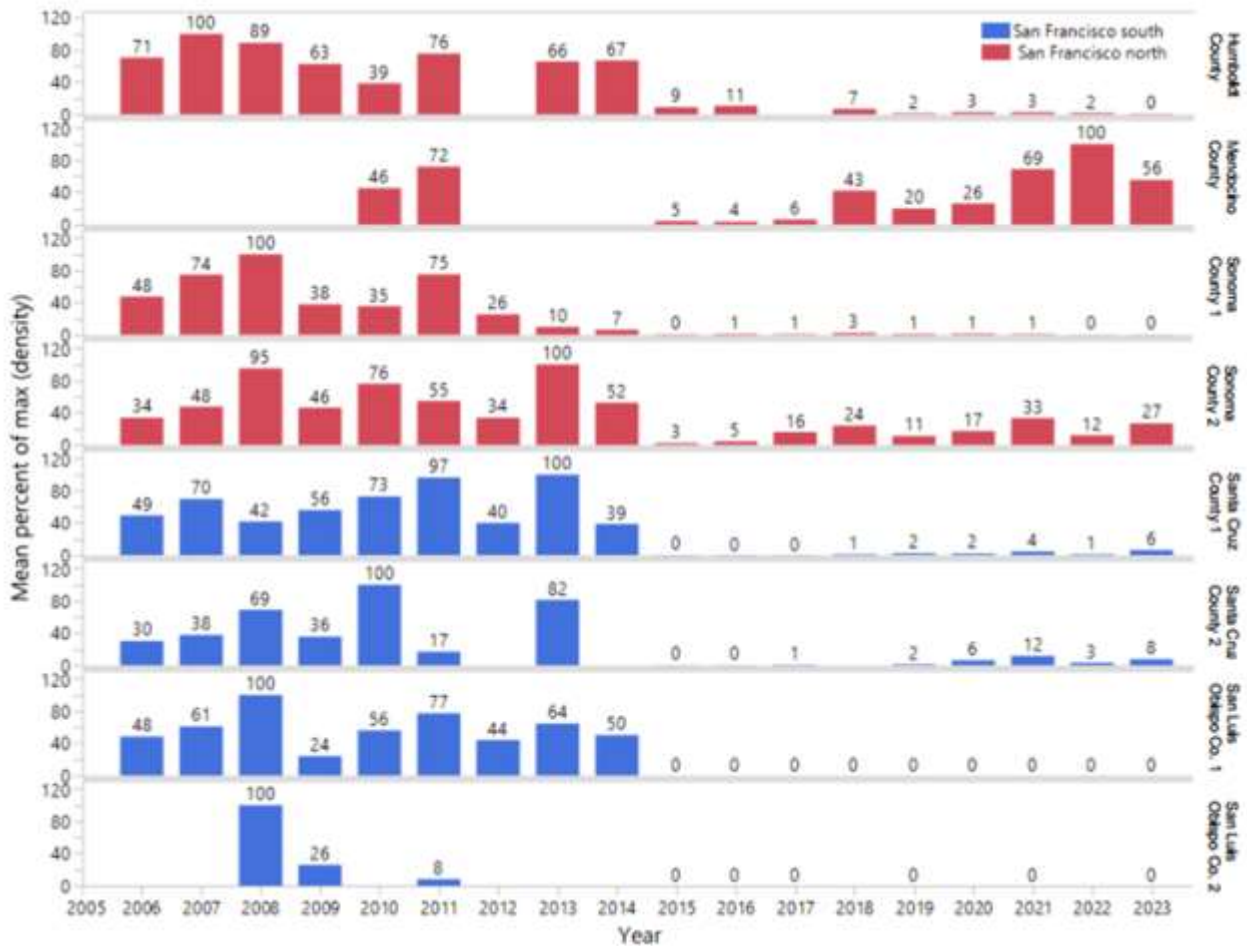


Figure 2. Multi-Agency Rocky Intertidal Network annual long-term sea palm monitoring at eight sites within the specified counties during the 18-year period between 2006 and 2023. The graphs are in descending order from north to south with the top four graphs representing sites north of San Francisco 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.