

Proposed Regulatory Language

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The intended use of kelp;

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

1. repetitive harvest of individual giant kelp plants;

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

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

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

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

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

(G) Harvesting methodology (harvest operation description).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) General Provisions.

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

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

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

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

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

(2) Harvest of Bull Kelp for Human Consumption.

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

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

(3) Harvest of Sea Palm for Human Consumption

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

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

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

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

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

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

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

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

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

Proposed Regulatory Language

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

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

(a) Application

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

(A) First name, middle initial and last name

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

(C) Business Name (not required for individuals)

(D) Name, place and date of incorporation

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

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

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

(H) Email address

(I) Daytime telephone number

(J) Business telephone number

(K) Gender: male, female, or nonbinary

(L) Date of birth

(M) Hair color

(N) Eye color

(O) Height

(P) Weight

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

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

(S) Number of processing plants

(T) Method of harvesting: hand or mechanical

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

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

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

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

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

(b) Monthly Harvest Reports

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

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

(c) Release of Property

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

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