

Fish and Game Commission Meeting Binder



April 25, 2016

Commission Emergency Meeting

OVERVIEW OF FISH AND GAME COMMISSION TELECONFERENCE MEETING

- This is the 146th year of continuous operation of the California Fish and Game Commission (Commission) in partnership with the California Department of Fish and Wildlife (Department). Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making. These meetings are vital in achieving that goal. In that spirit, we provide the following information to be as effective and efficient toward that end. Welcome and please let us know if you have any questions.
- We are operating under Bagley-Keene Open Meeting Act and these proceedings are being recorded and broadcast via Cal-Span.
- In the unlikely event of an emergency, please note the location of the nearest emergency exits at your location. Additionally, for those in the Commission conference room, the restrooms are located outside the front door and down the hall to your left (women's immediately after the elevators and men's further down the hall).
- Items may be heard in any order pursuant to the determination of the presiding commissioner.
- The amount of time for each agenda item may be adjusted based on time available and the number of speakers.
- Speaker cards need to be filled out **legibly** and turned in to the staff **before** we start the agenda item. Please make sure to list the agenda items you wish to speak to on the speaker card.
- We will ask how many speakers we have at each location before taking public comment; please be prepared when your name is called. If you are not in the room when your name is called you may forfeit your opportunity to speak on the item.
- When you speak, please state your name and any affiliation. Please be respectful. Disruptions from the audience will not be tolerated. Time is precious so please be concise.
- To receive meeting agendas and regulatory notices about those subjects of interest to you, please visit the Commission's website, www.fgc.ca.gov, and sign up for our electronic mailing lists.
- All petitions for regulation change must be submitted in writing on the authorized petition form, FGC 1 Petition to the California Fish and Game Commission for Regulation Change, available on the Commission's website.
- **Reminder!** Please silence your mobile devices and computers to avoid interruptions.

Commissioners
Eric Sklar, President
Saint Helena

Jacque Hostler-Carmesin, Vice President
McKinleyville

Anthony C. Williams, Member
Huntington Beach
Vacant, Member
Vacant, Member

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Mike Yaun, Acting Executive Director
1416 Ninth Street, Room 1320
Sacramento, CA 95814
(916) 653-4899
www.fgc.ca.gov

Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

EMERGENCY MEETING AGENDA – TELECONFERENCE **April 25, 2016, 2:00 p.m.**

Resources Building
Fish and Game Commission Conference Room 1320
1416 Ninth Street, Sacramento

NOTICE: Members of the public may participate in the teleconference at the address above, and at the following Department of Fish and Wildlife offices:

- 50 Ericson Court, Arcata, CA 95521
- 7329 Silverado Trail, Napa, CA 94558
- 4665 Lampson Avenue, Los Alamitos, CA 90720

NOTE: See important meeting information and procedures at the end of the agenda.

Call to order/roll call to establish quorum

1. Approve agenda
2. Adoption of proposed emergency regulation to close the razor clam fishery due to elevated levels of domoic acid
(Section 29.45, Title 14, CCR)

Adjournment

**FISH AND GAME COMMISSION
2016 MEETING SCHEDULE**

www.fgc.ca.gov

MEETING DATE	COMMISSION MEETING	COMMITTEE MEETING
May 18		Wildlife Resources Department of General Services Ziggurat Building – Auditorium 707 3 rd Street West Sacramento, CA 95605
June 21		Tribal Bakersfield
June 22-23	Bakersfield	
July 21		Marine Resources Petaluma Regional Library 100 Fairgrounds Drive Petaluma, CA 94952
August 24-25	Lake Natoma Inn Hotel & Conference Center 702 Gold Lake Drive Folsom, CA 95630	
September 21		Wildlife Resources Woodland Public Library Leake Center Community Room 250 First Street Woodland, CA 95695
October 18		Tribal Eureka
October 19-20	Eureka	
November 17		Marine Resources Irvine, CA
December 7-8	Portofino Inn & Suites 3805 Murphy Canyon Road San Diego, CA 92123	

OTHER MEETINGS OF INTEREST

Wildlife Conservation Board

- May 26, Sacramento
- August 30, Sacramento
- November 16, Sacramento

Pacific Fishery Management Council

- June 23-28, Tacoma, WA
- September 15-20, Boise, ID
- November 16-21, Garden Grove, CA

Pacific Flyway Council

- September 2016, date and location TBD

Western Association of Fish and Wildlife Agencies

- July 21-27, 2016, Cody, WY

IMPORTANT COMMISSION MEETING PROCEDURES INFORMATION

WELCOME TO A MEETING OF THE CALIFORNIA FISH AND GAME COMMISSION

This is the 146th year of operation of the Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making; Commission meetings are vital in achieving that goal. In that spirit, we provide the following information to be as effective and efficient toward that end. Welcome and please let us know if you have any questions.

PERSONS WITH DISABILITIES

Persons with disabilities needing reasonable accommodation to participate in public meetings or other Commission activities are invited to contact the Reasonable Accommodation Coordinator at (916) 651-1214.

STAY INFORMED

To receive meeting agendas and regulatory notices about those subjects of interest to you, please visit the Commission's website, www.fgc.ca.gov, and sign up on our electronic mailing lists.

SUBMITTING WRITTEN COMMENTS

The public is encouraged to comment on any agenda item. Submit written comments by one of the following methods: **E-mail** to fgc@fgc.ca.gov; **delivery** to Fish and Game Commission, 1416 Ninth Street, Room 1320, Sacramento, CA 95814; or **hand-deliver to a Commission meeting**.

Comment Deadlines: Written comments received at the Commission office by **10:00 a.m. on Monday April 25** will be made available to Commissioners prior to the emergency meeting. Otherwise, two copies of written comments must be brought to the meeting. All materials provided to the Commission may be made available to the general public.

VISUAL PRESENTATIONS/MATERIALS

Visual presentations will not be allowed at this meeting.

SPEAKING AT THE MEETING

To speak on an agenda item, please complete a "Speaker Card" and give it to the designated staff member before the agenda item is announced. Cards will be available near the entrance of the meeting room. Only one speaker card is necessary for speaking to multiple items.

1. Speakers will be called in groups; please line up when your name is called.
2. When addressing the Commission, give your name and the name of any organization you represent, and provide your comments on the item under consideration.
3. Each speaker has up to three minutes to address the Commission as determined by the presiding commissioner. If there are several speakers with the same concerns, please appoint a spokesperson and avoid repetitive testimony.
4. Speakers may cede their time to an individual spokesperson, but only under the following conditions:
 - a. Individuals ceding time forfeit their right to speak to the agenda item; and
 - b. The minimum number of individuals required to cede time to a spokesperson and the amount of time allocated are *arranged in advance* with the presiding commissioner.
5. If you are presenting handouts/written material to the Commission at the meeting, please provide two copies to the designated staff member just prior to speaking.

STAFF SUMMARY FOR APRIL 25, 2016

2. RAZOR CLAM EMERGENCY CLOSURE**Today's Item**Information Action

Adoption of proposed emergency regulation to close the recreational razor clam fishery for Humboldt and Del Norte counties.

Summary of Previous/Future Actions (N/A)**Background**

Current regulations for recreational take of razor clams specify seasons, size limits, bag limits and special gear provisions. The razor clam season for Humboldt County between Mad River and Strawberry Creek is open only during even-numbered years and between Strawberry Creek and Moonstone Beach open only during odd-numbered years. The razor clam season for Del Norte County north of Battery Point is open only during odd-numbered years and south of Battery Point is open only during even-numbered years. All other areas are open year-round.

On Apr 20, 2016, California Department of Public Health (CDPH) re-issued a health advisory, in place since Aug 2015, reminding individuals to avoid eating razor clams due to the detection of high levels of domoic acid. The advisory was followed by a recommendation to FGC from the director of the Office of Environmental Health Hazard Assessment (OEHHA), in consultation with the director of CDPH, that the recreational razor clam fishery be closed in Humboldt and Del Norte counties, in particular due to observations that numerous anglers have continued to harvest razor clams recently despite the advisory.

Domoic acid is a naturally occurring toxin that is related to a "bloom" of a particular single-celled plant called *Pseudo-nitzschia*. The conditions that support the growth of *Pseudo-nitzschia* are impossible to predict. Crustaceans, fish and shellfish are capable of accumulating elevated levels of domoic acid without apparent ill effects on the animals. Domoic acid poisoning in humans may occur within minutes to hours after consumption of affected seafood and can result in signs and symptoms ranging from vomiting and diarrhea to permanent loss of short-term memory (Amnesic Shellfish Poisoning), coma, or death. Similar to crabs, razor clams are known to retain domoic acid for long periods of time (more than a year in some cases).

Significant Public Comments

Staff will provide a verbal report on comments received by 10:00 a.m. on Apr 25, 2016.

Recommendation

FGC staff: Adopt the proposed emergency regulations to protect public health.

Exhibits

1. [Statement of Proposed Emergency Regulatory Action](#)
2. CDPH Reminds of Warning on Razor Clams from Humboldt and Del Norte Counties, [CDPH News Release, dated Apr 20, 2016](#)
3. Domoic Acid Threat to Public Safety, [OEHHA Memo, received Apr 20, 2016.](#)

STAFF SUMMARY FOR APRIL 25, 2016

4. Possible Recreational Razor Clam Closure in Humboldt and Del Norte Counties DFW News Release, dated Apr 20, 2016, available at <https://cdfgnews.wordpress.com/2016/04/20/possible-recreational-razor-clam-closure-in-humboldt-and-del-norte-counties/>.

Motion/Direction

Moved by _____ and seconded by _____ that the Commission determines, pursuant to sections 11125.5(b) and 11349.6 of the Government Code, that an emergency situation exists. The emergency situation clearly poses a danger of such an immediate serious harm that delaying action to allow public comment would be inconsistent with the public interest.

The Commission further determines, pursuant to Section 11125.5(b)(1) of the Government Code, that ingesting razor clams with high levels of domoic acid is a matter upon which urgent action is necessary to avoid severely impairing public health and safety and therefore holds this meeting without complying with the 10-day notice requirement of Section 11125 of the Government Code.

The Commission further determines, pursuant to Section 15061(a), Title 14, that the action is exempt from CEQA as an action necessary to prevent or mitigate an emergency as specified in 15269(c), Title 14.

The Commission further determines, pursuant to Section 240 of the Fish and Game Code, that adoption of this regulation is necessary for the immediate protection of public health and safety from ingesting elevated levels of poisonous domoic acid detected in recent samples of razor clams.

Therefore, the Commission adopts the proposed emergency changes to Section 29.45, Title 14, related to closure of the recreational razor clam fishery for the immediate preservation of public health.

CALIFORNIA FISH AND GAME COMMISSION
STATEMENT OF PROPOSED EMERGENCY REGULATORY ACTION

Emergency Action to
Amend Section 29.45,
Title 14, California Code of Regulations
Re: Emergency Closure of Razor Clam Fishery Due to Elevated Levels of Domoic Acid

I. Statement of Facts Constituting the Need for Emergency Regulatory Action

Under existing law, razor clams may be taken for recreational purposes with a sport fishing license subject to regulations prescribed by the Fish and Game Commission (Commission).

The current regulation specifies the seasons, size limit, and bag limit for recreational take of razor clams. The razor clam season for Humboldt County at Little River Beach is open between Mad River and Strawberry Creek only during even-numbered years and between Strawberry Creek and Moonstone Beach only during odd-numbered years. The razor clam season for Del Norte County north of Battery Point is open only during odd-numbered years and south of Battery Point is open only during even-numbered years. All other areas are open all year.

Recent test results indicate immediate action is needed to address an emergency situation involving a severe threat to public health and safety from the potential human consumption of razor clams with high levels of domoic acid harvested along the coast of Del Norte and Humboldt counties (along Crescent and Clam beaches). Domoic acid is a naturally occurring toxin that is related to a "bloom" of a particular single-celled plant called *Pseudo-nitzschia*. The conditions that support the growth of *Pseudo-nitzschia* are impossible to predict. Crustaceans, fish and shellfish are capable of accumulating elevated levels of domoic acid without apparent ill effects on the animals.

Domoic acid poisoning in humans may occur within minutes to hours after consumption of affected seafood and can result in signs and symptoms ranging from vomiting and diarrhea to permanent loss of short-term memory (Amnesic Shellfish Poisoning), coma, or death.

The current federal action level for domoic acid in clams is 20 parts per million (ppm). Data in razor clams collected this month from the coast of Del Norte and Humboldt counties show that all but one of the samples (17 out of 18) exceeded the action level of 20 ppm, with one third of the samples above 100 ppm, and therefore pose a significant risk to the public if they are consumed, as determined by the Office of Environmental Health Hazard Assessment (OEHHA) in consultation with the California Department of Public Health (CDPH). As a result,

OEHHA has recommended the fishery be closed for Del Norte and Humboldt counties.

This emergency situation clearly poses such an immediate, serious harm that delaying action to allow for public comment and notice requirements, pursuant to Section 11346.1 of the Government Code, would be inconsistent with the public interest.

Identification of Reports or Documents Supporting Factual Emergency

- California Department of Public Health, "CDPH Reminds of Warning on Razor Clams from Humboldt and Del Norte Counties," News Release, April 20, 2016
- California Office of Environmental Health Hazard Assessment, "Domoic Acid Threat to Public Health from Razor Clams in Del Norte and Humboldt Counties," Memo, April 20, 2016.

Regulatory Proposal

The proposed regulation would prohibit recreational take and possession of razor clams in Del Norte and Humboldt counties. Closure of the fishery shall remain in effect until the director of OEHHA, in consultation with the director of CDPH, determines that domoic acid levels in razor clams no longer pose a significant risk to public health and no longer recommends the fishery be closed.

The Department shall maintain a list of closed ocean waters of the state and update that list on Wednesday of each week by 1:00 pm. It shall be the responsibility of any person taking razor clams to call the Department's hotline at 831) 649-2883 or visit the Department's website at www.wildlife.ca.gov/Fishing/Ocean/Health-Advisories to obtain the current status of any ocean water.

II. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

- (a) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (b) Nondiscretionary Costs/Savings to Local Agencies:

None.

(c) Programs Mandated on Local Agencies or School Districts:

None.

(d) 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.

(e) Effect on Housing Costs:

None.

III. Authority and Reference

The Fish and Game Commission proposes this emergency action pursuant to the authority vested by sections 200, 202, 205, 220, and 240, of the Fish and Game Code and to implement, interpret, or make specific sections 200, 202, 205, 206, 220, and 240, of said Code.

IV. Section 240 Finding

Pursuant to Section 240 of the Fish and Game Code, the Commission finds that the adoption of this regulation is necessary for the immediate protection of public health that may result from elevated levels of domoic acid detected in samples of razor clams.

Informative Digest (Plain English Overview)

The current regulation specifies the seasons, size limits, and bag limits for recreational take of razor clams. The razor clam season for Humboldt County at Little River Beach is open between Mad River and Strawberry Creek only during even-numbered years and between Strawberry Creek and Moonstone Beach only during odd-numbered years. The razor clam season for Del Norte County north of Battery Point is open only during odd-numbered years and south of Battery Point is open only during even-numbered years. All other areas are open all year.

Proposed Regulatory Action: The proposed regulation would prohibit recreational take and possession of razor clams in Del Norte and Humboldt counties. Closure of the fisheries shall remain in effect until the director of the Office of Environmental Health Hazard Assessment, in consultation with the director of the California Department of Public Health, determines that domoic acid levels in razor clams no longer pose a significant risk to public health and no longer recommends the fishery be closed.

The Department shall maintain a list of closed ocean waters of the state and update that list on Wednesday of each week by 1:00 pm. It shall be the responsibility of any person taking razor clams to call the Department's hotline at (831) 649-2883 or visit to the Department's website at www.wildlife.ca.gov/Fishing/Ocean/Health-Advisories to obtain the current status of any ocean water.

Benefits: The proposed regulation will protect public health by prohibiting the take and possession of razor clams containing elevated levels of domoic acid.

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (sections 200, 202, 205, 220, and 240, Fish and Game Code).

Regulatory Language

Section 29.45, Title 14, CCR, is amended to read:

29.45. Razor Clams.

(a) Open season:

(1) Notwithstanding subsections (a)(2), (a)(3) and (a)(4) razor clams may not be taken or possessed in Del Norte and Humboldt counties where the Director of the Office of Environmental Health Hazard Assessment, in consultation with the Director of the California Department of Public Health, has determined that razor clams contain unhealthy domoic acid levels and recommends closing the fishery. The open seasons specified in subsections (a)(2), (a)(3) and (a)(4) only apply at such time as the Director of the Office of Environmental Health Hazard Assessment, in consultation with the Director of the California Department of Public Health, determines that domoic acid levels in razor clams no longer pose a significant risk to public health and no longer recommends the fishery be closed. The department shall maintain a list of closed ocean waters of the state and update that list on Wednesday of each week by 1:00 pm. It shall be the responsibility of any person prior to taking razor clams to call (831) 649-2883 or go to the department's website at www.wildlife.ca.gov/Fishing/Ocean/Health-Advisories to obtain the current status of any ocean water.

~~(4)~~ (2) Little River Beach in Humboldt County: Except as provided in subsection (a)(1), ~~Between~~between Mad River and Strawberry Creek open only during even-numbered years; between Strawberry Creek and Moonstone Beach open only during odd-numbered years.

~~(2)~~ (3) In Del Norte County: Except as provided in subsection (a)(1), ~~North-north of~~ Battery Point open only during odd-numbered years; south of Battery Point open only during even-numbered years.

~~(3)~~ (4) All other areas: Open all year, except as provided in subsection (a)(1).

(b) Limit: Twenty. The first twenty clams dug must be retained as the bag limit regardless of size or broken condition.

Note: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code.

Reference: Sections 200-202, 203.1, 205-210 and 215-222, Fish and Game Code.



News Release

CALIFORNIA DEPARTMENT OF PUBLIC HEALTH

FOR IMMEDIATE RELEASE

April 20, 2016
PH16-021

CONTACT: [Orville Thomas](#)
(916) 440-7259

CDPH Reminds of Warning on Razor Clams from Humboldt and Del Norte Counties

SACRAMENTO - California Department of Public Health (CDPH) Director and State Health Officer Dr. Karen Smith today is reminding consumers not to eat recreationally harvested razor clams from Humboldt or Del Norte counties. CDPH issued [news releases in August 2015](#) and [December 2015](#) warning against eating razor clams, and recent testing shows that dangerous levels of the domoic acid toxin continue to be present in these clams.

“CDPH is aware that people may have forgotten about this warning over the winter, and are anxious to take advantage of good weather and good clamming tides,” said Dr. Smith. “However, these toxins are still present so it’s very important that people pay attention to this warning.”

Razor clams are known to retain domoic acid for long periods of time, in some cases more than a year. The toxin concentration found in razor clams from Humboldt County late last year was the highest ever recorded on the West Coast, and was more than 10 times the federal action level.

Domoic acid, also known as Amnesic Shellfish Poisoning (ASP), can cause illness or death in humans. No cases of human poisoning from domoic acid are known to have occurred in California.

Symptoms of domoic acid poisoning can occur within 30 minutes to 24 hours after eating toxic seafood. In mild cases, symptoms may include vomiting, diarrhea, abdominal cramps, headache and dizziness. These symptoms disappear within several days. In severe cases, the victim may experience trouble breathing, confusion, disorientation, cardiovascular instability, seizures, excessive bronchial secretions, permanent loss of short term memory, coma or death.

These warnings do not apply to commercially sold clams, mussels, scallops or oysters from approved sources. State law permits only state-certified commercial shellfish harvesters or dealers to sell these products. Shellfish sold by certified harvesters and dealers are subject to frequent mandatory testing to monitor for toxins.

For the most current information about shellfish poisoning and health advisories, call CDPH’s toll-free “Shellfish Information Line” at (800) 553-4133. For additional information visit CDPH’s [Preharvest Shellfish Protection and Marine Biotxin Monitoring Program Web Page](#).

www.cdph.ca.gov

Office of Environmental Health Hazard Assessment



Matthew Rodriguez
Secretary for
Environmental Protection

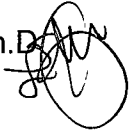
Lauren Zeise, Ph.D., Acting Director
Headquarters • 1001 I Street • Sacramento, California 95814
Mailing Address: P.O. Box 4010 • Sacramento, California 95812-4010
Oakland Office • Mailing Address: 1515 Clay Street, 16th Floor • Oakland, California 94612



Edmund G. Brown Jr.
Governor

MEMORANDUM

TO: Michael Yaun, Acting Executive Director
California Fish and Game Commission
1416 Ninth Street, 12th Floor
Sacramento, California 95814

FROM: Lauren Zeise, Ph.D.
Acting Director 

DATE: April 20, 2016

SUBJECT: DOMOIC ACID THREAT TO PUBLIC HEALTH FROM RAZOR CLAMS IN
DEL NORTE AND HUMBOLDT COUNTIES

Recent test results indicate prompt action is needed to address an emergency situation involving a severe threat to public health and safety from the potential human consumption of razor clams with high levels of domoic acid.

The Office of Environmental Health Hazard Assessment (OEHHA) has been provided test data from the California Department of Public Health (CDPH) laboratories measuring high levels of domoic acid in razor clams harvested along the coast of Del Norte and Humboldt counties (along Crescent and Clam beaches). Domoic acid poisoning in humans may occur within minutes to hours after consumption of affected seafood and can result in signs and symptoms ranging from vomiting and diarrhea to permanent loss of short-term memory (Amnesic Shellfish Poisoning), coma, or death.

The current federal action level for domoic acid in clams is 20 parts per million (ppm). Data in razor clams collected this month from the coast of Del Norte and Humboldt counties show that all but one of the samples (17 out of 18) exceeded the action level of 20 ppm. One-third of the samples were above 100 ppm.

In consultation with the Director of CDPH, OEHHA finds that consumption of razor clams is likely to pose a significant human health risk as a result of high levels of domoic acid. As such, OEHHA recommends that the razor clam fishery be closed for Del Norte and Humboldt counties.

California Environmental Protection Agency

Sacramento: (916) 324-7572 Oakland: (510) 622-3200

www.oehha.ca.gov

Michael Yaun
April 20, 2016
Page 2

OEHHA anticipates making a recommendation to open the fishery or lift the closure based on further domoic acid testing conducted in clams at each of the sampling locations, to include two sets of samples, collected at least seven days apart that all test under the Food and Drug Administration (FDA) action level.

If you have questions, please contact me at Lauren.Zeise@oehha.ca.gov or (916) 322-6325.

cc: Matthew Rodriguez
Secretary for Environmental Protection
California Environmental Protection Agency
1001 I Street
Sacramento, California 95814

Karen L. Smith, Director
California Department of Public Health
1615 Capitol Avenue, Suite 720
Sacramento, California 95899-7377

Charlton H. Bonham, Director
California Department of Fish and Wildlife
1416 Ninth Street, 12th Floor
Sacramento, California 95814