



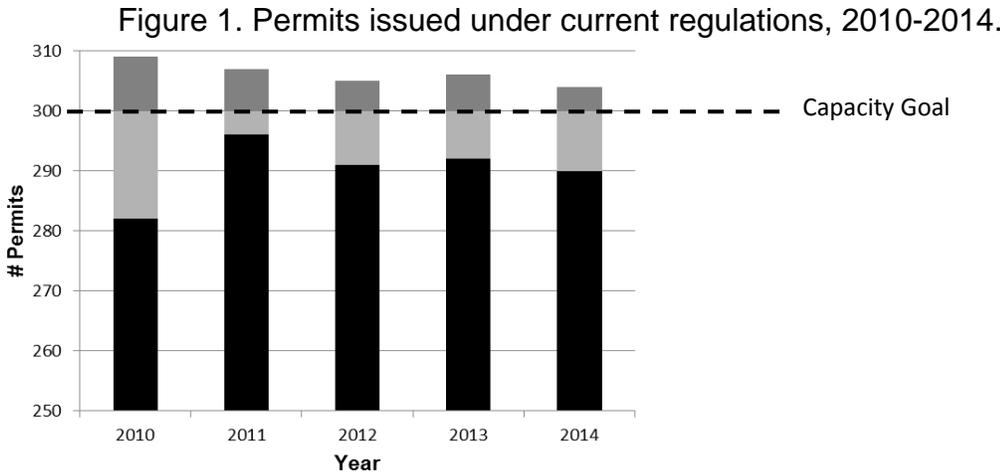
permits and fishery capacity for many years. A capacity goal of 300 was instituted in regulation in the 1990s, which was approached in approximately 2007.

Existing regulations (subsection 120.7(d)(2), Title 14, CCR) specify that the number of renewed permits used to determine if new permits will be available for issuance is based on renewals from the portion of the current permit year prior to August 1 (i.e., April 1- July 31) and compared to the capacity goal of 300.

The proposed regulation would modify that provision to determine the number of renewed permits based on the immediately preceding full permit year (i.e., April 1 through March 31), to avoid issuance of new permits above 300 before accounting for the total number of prior permits renewed in the permit year.

Rationale: The current annual commercial fish permit year runs from April 1 through March 31 of the following calendar year. Tallying renewals in the middle of the permit year (before August 1) does not account for potential late permit renewals from August 1 to March 31. This has led to perpetual issuance of permits above the 300-permit capacity goal. The proposed change will prevent issuance of permits above the capacity goal by ensuring that all renewals are accounted for when determining if new permits will be available pursuant to subsections 120.7(d)(2) and 120.7(e).

Figure 1 shows the number of permits issued under current regulations over the past five years (2010-2014), and illustrates how current regulations have resulted in recurring issuance of annual permits in excess of 300.

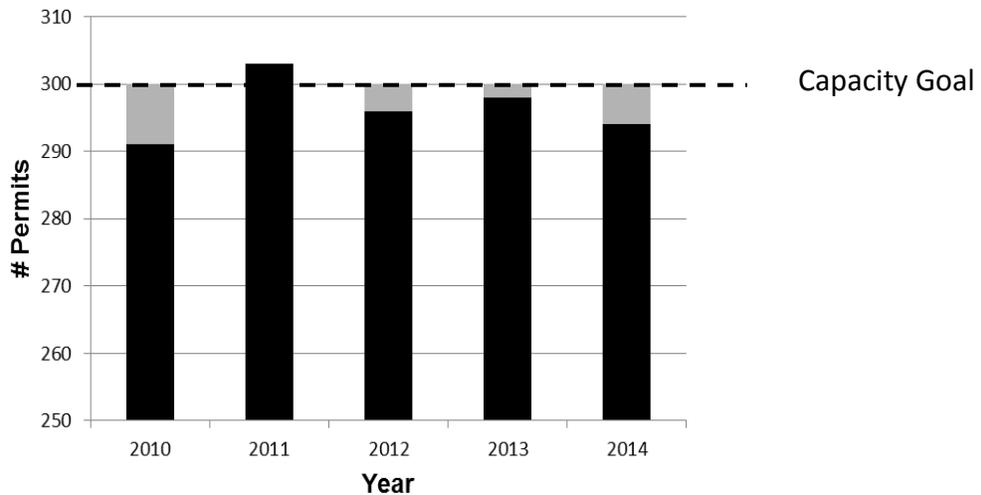


**Legend**  
 Prior permits renewed before Aug 1 of permit year (Apr 1- Jul 31)  
 New permits issued through drawing based on renewals prior to Aug 1

■ Prior permits renewed Aug 1 to end of permit year (Aug 1- Mar 31)

Figure 2 provides a comparison of the number of new permits that would hypothetically have been issued if determined based on the total number of prior permits renewed in the full permit year (i.e., April 1 – March 31) compared to the capacity goal (300). The hypothetical scenario provided in Figure 2 illustrates how determining new permit availability based on renewals from the full preceding permit year is more effective at meeting the original intent of not exceeding the capacity goal.

Figure 2. Hypothetical scenario estimating the number of new permits that would have been issued based on the actual number of permits issued in the full permit year, 2010 – 2014.



**Legend**

- Renewed permits for full permit year (Apr 1 - Mar 31)
- Hypothetical new permits if issued based on full preceding permit year (as proposed)

Existing regulations (subsection 120.7(m), Title 14, CCR) require that each permittee shall record daily fishing activity records on a logbook provided by the Department, and specifies to which office the completed daily records shall be sent based on the location of fishing activity. The proposed regulation would add a cross-reference to Section 190, Title 14, CCR, regarding fishing activity records, and would delete the location of Department offices where fishing activity records shall be sent, which is already specified on the logbook forms.

This change is proposed to ensure consistency between this section and

other regulatory sections pertaining to logbooks that already cross-reference Section 190. The proposed change will ensure that future changes to Section 190 pertaining to submission of logbooks also apply to sea urchin logbooks. Further, logbook forms used to record sea urchin fishing activity records already specify the Department locations for record submissions. Since the logbook forms are incorporated by reference in subsection 120.7(m), the change would eliminate redundancy between the logbook and regulatory text.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 1050, 9054 and 9055, Fish and Game Code.

Reference: Sections 1050, 7850, 7852.2, 7857, 9054 and 9055, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

None.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

June 18, 2013 Marine Resources Committee meeting, Santa Barbara: discussion of proposal.

August 5, 2014 Marine Resources Committee meeting, San Diego: discussion of revised proposal.

October 8, 2014 Fish and Game Commission meeting, Mt. Shasta: Discussed and accepted proposal to schedule for rulemaking.

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

- (a) Alternatives to Regulation Change:

Provide for transferability of sea urchin diving permits. This alternative was considered and rejected because the qualifying criteria for receiving a transferable permit are more appropriate to consider through development of a fishery management plan and after the permit capacity has reached a stable and desirable level.

- (b) No Change Alternative:

The no change alternative would keep the existing regulations in place. The schedule for counting total permit renewals and determining if new permits will be made available would remain April 1 to July 31, before the total number of renewed permits in the permit year is known. This “lottery loophole” would continue to result in issuance of new permits above the capacity goal.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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 because the proposed action will not increase costs or reduce harvest quotas. These actions are intended to align the number of permits issued with the existing fishery permit sales restrictions which should increase the average catch per unit of effort and ensure the long-term sustainability of the fishery.

(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:

No impacts on the creation or elimination of jobs within the state, the creation of new businesses, the elimination of existing businesses or the expansion of businesses are anticipated because the proposed action will not increase costs or reduce harvest quotas. These actions are intended to align the number of permits issued with the existing fishery permit sales restrictions which should increase the average catch per unit of effort and ensure the long-term sustainability of the fishery. The Commission does not anticipate any benefits to the health and welfare of California residents or worker safety.

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

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(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:

The sea urchin industry has expressed concern about possible excess capacity in the fishery that may result in overutilization or interfere with efficient and economic operation of the fishery. The proposed regulatory action is intended to bring the number of permits into alignment with the existing permit sales limits to prevent overutilization and to ensure efficient and economic operation of the fishery.

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

State:

No impacts on the creation or elimination of jobs within the state are anticipated because the proposed action will not increase costs or reduce harvest quotas. These actions are intended to align the number of permits issued with the existing fishery permit sales restrictions which should increase the average catch per unit of effort and ensure the long-term sustainability of the fishery.

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

No impacts on the creation of new businesses or the elimination of existing businesses are anticipated because the proposed action will not increase costs or reduce harvest quotas. These actions are intended to align the number of permits issued with the existing fishery permit sales restrictions which should increase the average catch per unit of effort and ensure the long-term sustainability of the fishery.

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

None.

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

None.

- (e) Benefits of the Regulation to Worker Safety:

None.

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

None.

- (g) Other Benefits of the Regulation:

None.

## Informative Digest/Policy Statement Overview

State law (Section 9054, Fish and Game Code) authorizes the Commission to set the conditions for issuance of commercial sea urchin diving permits, and to limit the number of permits that may be issued when necessary to prevent overutilization or to ensure efficient and economic operation of the fishery on a statewide basis or within selected geographical areas.

Proposed changes to regulations:

- Subsection 120.7(d)(2), Title 14, CCR, currently provides for new sea urchin diving permits to be issued annually, dependent on whether the number of renewed permits from the prior year is less than or greater than the capacity goal of 300. The proposed amendments to the regulation would ensure that if any new permits are added, the capacity goal of 300 permits will not be exceeded. All qualified diving permits from the previous year are eligible to be renewed.
- Existing regulations (subsection 120.7(m), Title 14, CCR) require that each permittee shall record daily fishing activity records on a logbook provided by the Department, and specifies to which office the completed daily records shall be sent based on the location of fishing activity. The proposed regulation would add a cross-reference to Section 190, Title 14, CCR, regarding fishing activity records, and would delete the location of Department offices where fishing activity records shall be sent, since this information is already specified on the logbook forms.

The proposed regulatory action will benefit fishermen, processors, and the State's economy in the form of a healthy sustainable fishery, and future harvestable sea urchin populations.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game 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 regulate the commercial take of sea urchins (Sections 9054 and 9055, Fish and Game Code). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Commission has searched the California Code of Regulations and finds no other State agency regulations pertaining to the commercial take of sea urchins.