

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](http://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](tel:8316492883) or visit to the Department's website at [www.wildlife.ca.gov/Fishing/Ocean/Health-Advisories](http://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).