

**TITLE 14. Fish and Game Commission  
Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 713, 1050, 9054 and 9055, of the Fish and Game Code and to implement, interpret or make specific Sections 713, 1050, 7850, 7852.2, 7857, 9054, and 9055, of said Code, Taking of Sea Urchin for Commercial Purposes, and Commercial Fishing Applications, Permits, Tags and Fees

**Informative Digest/Policy Statement Overview**

Currently, subsection 120.7(d), Title 14 of the California Code of Regulations (CCR) sets the total number of sea urchin diving permits at 300. Subsection 120.7(e) further prescribes a random drawing system for distributing new permits as they become available. Under the current system, applicants who have held a sea urchin crewmember permit for more than two years would have his/her name entered into the draw one additional time for each additional year he/she has held such permit. However, this advantage is very small in practice due to a maximum cap of five times that a name may be entered into a draw.

Currently Section 750(c)(4) requires no fee for the random drawing application.

**SUMMARY OF THE PROPOSED AMENDMENTS**

The proposed amendments to subsection (d) would decrease the sea urchin fishery's capacity goal to 150 permittees. This capacity goal will be achieved by issuing one new permit only once 11 permits have been retired. This ratio was chosen to simplify the calculation in which new permits would be issued, taking in account the new permit that is added to the fishery.

The lottery system proposed in subsection (e) and (f) will ensure that the most qualified applicants would enjoy a realistic advantage over less-qualified applicants. Under the new system, most of the new permits would be given to applicants with the most experience in the fishery as crewmembers. The remaining percentage of the new permits would be distributed under a drawing system where every remaining applicant stands the same chance.

The proposed amendment to Section 750(c)(4) would remove reference to the current drawing application form and add a minor administrative fee of \$4.38 for future applications to enter the drawing.

Other amendments to Section 120.7 include:

- Add one extra fishing day per week in the months of June to October in Southern California.

- Clarify the requirements for authorization of an assistant for a sea urchin diver permittee.
- Remove language that no longer has any effect and clarify other regulatory text.

## BENEFITS OF THE PROPOSED REGULATIONS

The proposed amendments would significantly decrease the latent fishing capacity within the current sea urchin fishery due to a large number of unused permits. The changes would also strike a better balance for the future succession of the fishery by ensuring that the most qualified candidates would receive sea urchin diving permits in due course. At the same time, those who may not be as qualified but nonetheless are still willing and able would still have a chance of receiving one of these permits.

The additional dive days during the summer and fall months would allow divers to dive on days with the safest weather condition. The additional days would also help the industry meet the demand of Saturday dock markets and weekend demand. The added harvesting pressure is anticipated to be minimal, but the quality will be greatly enhanced to the consuming public.

## CONSISTENCY WITH STATE REGULATIONS

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. Commission staff has searched the California Code of Regulations and statutes and has found no other State regulations related to commercial take of sea urchins and no other State agency with authority to promulgate regulations concerning commercial take of sea urchins.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the in the SpringHill Suites by Marriott, 900 El Camino Real, Atascadero, California, on Thursday, October 12, 2017 at 8:00 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Handlery Hotel, 950 Hotel Circle North, San Diego, California, on Thursday, December 7, 2017, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on November 22, 2017 at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on December 1, 2017. All comments must be received no later than December 7, 2017, at the hearing. If you would like copies of any modifications to this proposal, please include your name and mailing address.

### **Availability of Documents**

The Initial Statement of Reasons, text of the regulations, as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Sheri Tiemann at the preceding address or phone number. **Anthony Shiao, Environmental Specialist, Marine Region, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Mr. Shiao can be reached at (805) 560-6056 or [Anthony.Shiao@wildlife.ca.gov](mailto:Anthony.Shiao@wildlife.ca.gov).** Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our website at <http://www.fgc.ca.gov>.

### **Availability of Modified Text**

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

### **Impact of Regulatory Action/Results of the Economic Impact Assessment**

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:

Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

- (a) 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 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. The gradual reduction in the number of permits issued to 150 will accommodate the 125 average number of active urchin divers.

Over time, a reduction in permits issued should align the number of divers with the size of the harvesting grounds, increase the average catch per unit of effort and ensure the long-run sustainability of the fishery.

The addition of one more day per week of fishing during the months of June through October is anticipated to enable sea urchin divers more flexibility to harvest and bring fresh product to market at peak demand. This change should assist California sea urchin businesses in remaining competitive.

- (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 or the elimination of existing businesses are anticipated because the proposed action will not increase costs or reduce harvest quotas.

- (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:

The Department may experience a reduction in permit sales revenue with the gradual decline in the number of permits issued from the current 300 to 150 over time. Permits are \$461 per diver annually. If some of the sea urchin diving permittees choose not to renew at a rate of five percent each year, and an estimated 80 applicants enter the annual draw for a new permit, the Department could have revenue losses of about \$6,575 in the current year and an estimated \$6,229 - \$5,901 in the next two fiscal years.

Table 2. Estimated Revenue Impact to the State

Fiscal Year	Inactive Permits Retained	10% Permits Retired	Department Fee Revenue Loss
2018/19	150	15	\$ 6,915
2019/20	135	14	\$ 6,224
2020/21	122	12	\$ 5,601

No change to federal funding to the State is anticipated.

- (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

### **Effect on Small Business**

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

### **Consideration of Alternatives**

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

## FISH AND GAME COMMISSION

Dated: August 29, 2017

Valerie Termini  
Executive Director