

**State of California
Office of Administrative Law**

In re:
Fish and Game Commission

Regulatory Action:

Title 14, California Code of Regulations

Adopt sections:

Amend sections: 120.7

Repeal sections:

**REVISED NOTICE OF APPROVAL OF
REGULATORY ACTION**

Government Code Section 11349.3

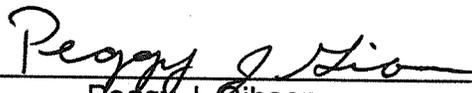
OAL Matter Number: 2016-0505-02

OAL Matter Type: Regular (S)

The Fish and Game Commission is amending title 14 section 120.7 of the California Code of Regulations. This amendment specifies that no new permits for sea urchin diving will be issued when the number of renewed permits is equal to or greater than 300.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 6/16/2016.

Date: June 23, 2016



Peggy J. Gibson
Senior Attorney

For: Debra M. Cornez
Director

Original: Michael Yaun
Copy: Sheri Tiemann

State of California
Office of Administrative Law

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

JUN 23 2016

Memorandum

1:55 PM

Date: June 23, 2016

To: Secretary of State Archives

From: Peggy J. Gibson, Attorney III
Office of Administrative Law

Subject: Fish and Game Commission, 2016-0505-02S
Date Filed with Secretary of State: 06/16/2016
Title 14, California Code of Regulations

Adopt sections:
Amend section: 120.7
Repeal sections:

On June 16, 2016, the Office of Administrative Law filed with the Secretary of State a "Notice of Approval of Regulatory Action" for the Fish and Game Commission, file number 2016-0505-02S. There was an error made on the Form 400 by the Fish and Game Commission (Commission). The Office of Administrative Law has agreed to allow the Commission to correct this error. Please find attached a corrected Form 400. The error was as follows:

The Form 400 indicated this amendment would be effective pursuant to Government Code section 11343.4(a) thereby making the effective date October 1, 2016. The agency intended however, to check "effective on filing."

Please attach this memorandum and a copy of the documents to the Notice filed on 06/16/2016.

Thank you for your help. If you have any questions, please call me at 916-323-6805.

cc: Sheri Tiemann, Fish and Game Commission

REGULAR

NOTICE PUBLICATION/REGULATION SUBMISSION instructions on reverse

For use by Secretary of State only

STD. 400 (REV. 01-2013)

| | | | |
|--|---|--|-----------------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER Z-2016-0216-13 | REGULATORY ACTION NUMBER 2016-0505-02S | EMERGENCY NUMBER |
| For use by Office of Administrative Law (OAL) only | | | |
| NOTICE | | REGULATIONS | |
| AGENCY WITH RULEMAKING AUTHORITY Fish and Game Commission | | | AGENCY FILE NUMBER (if any) |

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JUN 16 2016

1:38PM

2016 MAY -5 P 3:21
OFFICE OF ADMINISTRATIVE LAW

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

| | | | | |
|---|--|---|--|--|
| 1. SUBJECT OF NOTICE Sea Urchin Fishery | | TITLE(S) 14 | FIRST SECTION AFFECTED 120.7 | 2. REQUESTED PUBLICATION DATE 2/26/2016 |
| 3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other | | 4. AGENCY CONTACT PERSON Sheri Tiemann | | TELEPHONE NUMBER 916-654-9872 |
| FAX NUMBER (Optional) | | NOTICE REGISTER NUMBER 2016 09.2 | | PUBLICATION DATE 2/26/2016 |
| OAL USE ONLY | ACTION ON PROPOSED NOTICE | | | |
| | <input type="checkbox"/> Approved as Submitted | <input type="checkbox"/> Approved as Modified | <input type="checkbox"/> Disapproved/Withdrawn | |

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

| | |
|---|--|
| 1a. SUBJECT OF REGULATION(S) Commercial Sea Urchin Fishing | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) |
|---|--|

| | |
|---|----------------|
| 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related) | |
| SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) | ADOPT |
| | AMEND 120.7 |
| TITLE(S) 14 | REPEAL |

3. TYPE OF FILING

| | | | |
|---|---|---|---|
| <input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) | <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. | <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) | <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) |
| <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) | <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) | <input type="checkbox"/> File & Print | <input type="checkbox"/> Print Only |
| <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) | | <input type="checkbox"/> Other (Specify) _____ | |

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))

Effective on filing with Secretary of State

\$100 Changes Without Regulatory Effect

Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

| | | |
|--|--|---|
| <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) | <input type="checkbox"/> Fair Political Practices Commission | <input type="checkbox"/> State Fire Marshal |
| <input type="checkbox"/> Other (Specify) _____ | | |

| | | | |
|------------------------------------|----------------------------------|-----------------------|---|
| 7. CONTACT PERSON Sheri Tiemann | TELEPHONE NUMBER 916-654-9872 | FAX NUMBER (Optional) | E-MAIL ADDRESS (Optional) sheri.tiemann@fgc.ca.gov |
|------------------------------------|----------------------------------|-----------------------|---|

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

| | |
|--|----------------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Melissa A. Miller-Henson</i> | DATE 5/5/16 |
| TYPED NAME AND TITLE OF SIGNATORY Melissa Miller-Henson, Staff Services Manager | |

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUN 16 2016

Office of Administrative Law

Regulatory Text

Section 120.7, Title 14, CCR, is amended to read:

... [No changes to subsections (a) through (c)]

(d) Number of Permits.

(1) All qualified prior sea urchin diving permittees shall be eligible to receive diving permits regardless of the number issued.

(2) ~~If the number of diving permits issued to prior permittees is more than 300, the total number of new sea urchin diving permits available for issuance shall be one-tenth the difference between the total number of sea urchin diving permits issued prior to August 1 of the current permit year and the total number of sea urchin permits issued during the immediately preceding permit year. If the number of diving permits issued to prior permittees is less than 300, the number of new sea urchin diving permits to be issued shall be the difference between the number of diving permits issued to prior permittees in the immediately preceding permit year (ending March 31) and 300. If the number of permits issued to prior permittees is 300 or more, no new sea urchin diving permits shall be available.~~

... [No changes to subsections (e) through (l)]

(m) Logbooks. ~~Each Pursuant to Section 190 of these regulations, each permittee shall complete and submit an accurate record of all sea urchin fishing activities on a form (DFG-120.7 (2/08)), incorporated herein by reference, provided by the department before the sea urchins are landed. The completed daily records shall be sent to the department address specified on the logbook on or before the tenth day of each month following the month to which the records pertain. Fort Bragg office of the Department of Fish and Game for fishing activities north of the Monterey San Luis Obispo county line, and to the Los Alamitos office for fishing activities south of the Monterey San Luis Obispo county line on or before the tenth day of each month following the month to which the records pertain.~~

... [No changes to subsections (n) through (p)]

Note: Authority cited: Sections 713, 1050, 9054 and 9055, Fish and Game Code.
Reference: Sections 713, 1050, 7850, 7852.2, 7857, 9054 and 9055, Fish and Game Code.

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
MEMORANDUM

DATE: June 22, 2016

TO: Debra Cornez, Director
Office of Administrative Law

FROM: Melissa Miller-Henson, Program Manager *Melissa Miller-Henson*

SUBJECT: 2016-0505-02S – Commercial Sea Urchin Fishing

The Form 400 for this rulemaking was incorrectly marked and should have been marked effective on filing with the Secretary of State.

The Fish and Game Commission (Commission) requests that the regulations be effective on filing with the Secretary of State to prevent overutilization of the resource and to ensure efficient operation of the fishery by not issuing new permits above the identified capacity goal.

The current regulation specifies a method for tallying permit renewals that does not account for late permit renewals and has led to perpetual issuance of permits above the capacity goal; the new regulation in 2016-0505-02S will prevent issuing permits above the capacity goal.

Thank you for your consideration in this matter.