

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Add Section 662
Title 14, California Code of Regulations
Re: Petitions for Regulation Change

I. Date of Initial Statement of Reasons: September 29, 2014

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: October 8, 2014
Location: Mt. Shasta, CA

(b) Discussion Hearing Date: December 3, 2014
Location: Van Nuys, CA

(b) Adoption Hearing: Date: February 11, 2015
Location: Sacramento, CA

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Under current law (Government Code Section 11340.6) any interested person may petition the Fish and Game Commission (Commission) to adopt, amend or repeal a regulation. This Section also requires that any petition clearly and concisely state the substance or nature of the requested regulation change, the reason for the request, and reference to the authority of the Commission to take the requested action.

In 2013, the Commission received approximately 80 requests for regulation changes; from January through August 2014, the Commission received 70 requests for regulation changes. The requests are presented to the Commission via mail, email, facsimile and/or oral testimony during a Commission meeting. Many requests lack critical information for the Commission to make an informed decision, leading to additional workload for staff to research and gather relevant information to understand the issue or concern and support decision-making. Often the requests are subsequently forwarded to the Department to provide biological data and expertise, and then added to the agenda of a regularly-scheduled Commission meeting for formal acceptance or rejection.

The public is often confused about the scheduling and timing of Commission action on regulation change requests. To improve

transparency and provide consistent guidance on the Commission's rulemaking process, Commission staff recommends the Commission adopt a regulation and require the use of a form for submitting regulation change proposals.

The proposed regulations add new Section 662, Title 14, California Code of Regulations (CCR), and require that every person petitioning the Commission for a regulation to be added, amended or repealed must use the authorized petition form (FGC-xxx).

Under the proposed regulations, Commission staff will review the petition and will reject a petition if it is not submitted on form FGC-xxx, if it fails to contain necessary information in each of the categories listed on the form FGC-xxx, if it does not pertain to issues under the Commission's authority, or if a similar regulation change was considered within the previous 12 months and no new information or data is being submitted beyond what was previously submitted.

The proposed regulations specify that an incomplete petition will be returned to the petitioner by the Commission staff within 10 working days of receipt, and that a complete petition will be considered in a two-meeting series:

- At the first meeting, the Commission will formally receive the petition. The petition may also be forwarded to the Department for initial evaluation.
- At the second meeting, the Commission will consider the petition, the Commission staff's recommendation, Department's initial evaluation, if any, and any oral or written public comments received. At this meeting, the Commission may reject a petition if it finds the petition does not provide sufficient information to indicate that the petitioned change may be warranted, may add the petitioned change to its rulemaking schedule, may refer the petition to one of the Commission's committees for further public input and committee evaluation and recommendation, or may refer the petition to the Department for evaluation and recommendation.

Proposed Form XXX (rev. date) requires the petitioner to provide the following information:

- Petitioner contact information
- Category of regulation change being proposed
- Whether the proposal will add, amend or repeal a regulation
- Whether the petition is related to a previous petition which was rejected
- Authority and reference citations, if known
- A summary of the proposed changes to regulation
- The rationale for the proposed change
- The desired effective date and, if applicable, the nature of the

- emergency requiring immediate implementation
- Supporting data, reports or other documents, if any
- Any known economic and/or fiscal impacts
- Identification of any forms to be created, amended or repealed

The proposed regulations will also rename Chapter 2 of Subdivision 3, of Division 1, Title 14, CCR, as “Commission Business Practices and Procedures.”

The benefits of the proposed regulations are increased transparency and understanding of the Commission’s regulatory process, and consistency in the processing of public requests for regulation change.

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

Authority: Section 108, Fish and Game Code.

Reference: Sections 108 and 207, Fish and Game Code; Section 11340.6 and 11340.7, Government Code.

- (c) Specific Technology or Equipment Required by Regulatory Change: None.

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

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

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed regulations.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No alternatives were identified or brought to the attention of Commission staff.

- (b) No Change Alternative:

Under the no change alternative, the public would continue to be confused regarding the scheduling and timing of Commission action on regulation change requests, and petitions for regulation changes would continue to be presented in inconsistent formats, often lacking critical information.

- (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. The proposed regulations only affect the process through which the Commission will receive and consider petitions for regulation changes.

(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:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California.

The Commission does not anticipate any benefits to the health and welfare of California residents, worker safety, or the environment.

(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.

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Informative Digest/Policy Statement Overview

Under current law (Government Code Section 11340.6) any interested person may petition the Fish and Game Commission (Commission) to adopt, amend or repeal a regulation. This section also requires that any petition clearly and concisely state the substance or nature of the requested regulation change, the reason for the request, and reference to the authority of the Commission to take the requested action.

The proposed regulations add new Section 662, Title 14, California Code of Regulations (CCR). The proposed regulations outline the process under which petitions will be evaluated and scheduled for receipt and Commission action and require the use of form FGC-XXX (rev. date) for submitting regulation change proposals.

The benefits of the proposed regulations are increased transparency and understanding of the Commission's regulatory process and consistency in the processing of public requests for regulation change.

Commission staff has searched the CCR and has found that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

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Chapter 2 of Subdivision 3, of Division 1, Title 14 is renamed:

Chapter 2. Commission Business Practices and Procedures

Section 662, Title 14, California Code of Regulations, is added to read:

§662. Petitions for Regulation Change.

The following rules and procedures govern the submission and review of petitions for adding, amending, or repealing regulations under the authority of the commission:

- (a) Petition Requirement. Except for the department, every person or agency recommending that a regulation be added, amended, or repealed must submit a petition to the commission using the authorized petition form (PETITION TO THE STATE OF CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE, FGC-xxx(DATE), which is incorporated by reference herein), available at www.fgc.ca.gov.
- (b) Staff Review of Petition: A petition will be rejected by commission staff if it is not submitted on form FGC-xxx (DATE), if it fails to contain necessary information in each of the categories listed on FGC-xxx, if it does not pertain to regulations under the commission's authority, or if a similar regulation change was considered within the previous 12 months and no new information or data is being submitted beyond what was previously submitted. A rejected petition will be returned to the petitioner by the commission staff within 10 working days of receipt.
- (c) Commission Receipt of Petition and Transmittal of Petition to the Department: A complete petition will be scheduled for receipt at the next available commission meeting and may be forwarded to the department for initial evaluation.
- (d) Commission Action on Petition: The petition will be scheduled for consideration at the next available meeting after the meeting of receipt as identified in subsection (c). The commission will consider the petition, the commission staff's recommendation, department's initial evaluation, if any, and any oral or written public comments received, and may take one or more of the following actions:
 - (1) If the commission finds that the petition does not provide sufficient information to indicate that the petitioned change may be warranted the commission may reject the petition.
 - (2) If the commission finds that the petition provides sufficient information to indicate that the petitioned change may be warranted, the commission may accept the petition for further consideration and direct one or more of the following actions:
 - (A) Add the petitioned change to its rulemaking schedule. Further proceedings of the commission on the petitioned change will be held in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

- (B) Refer the petitioned change to one of the commission's committees to gather additional public input and for a committee evaluation and recommendation pursuant to sections 105 and 106 of the Fish and Game Code.
- (C) Refer the petitioned change to the department for further evaluation and recommendation.
- (e) A petition referred to a committee pursuant to subsection (d)(2)(B) or to the department pursuant to subsection (d)(2)(C) will be reconsidered pursuant to subsection (d) once the evaluation and recommendation has been received from the committee or department.

Note: Authority: Section 108, Fish and Game Code. Reference: Sections 108 and 207, Fish and Game Code; Section 11340.6 and 11340.7, Government Code.

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Petition to the California Fish and Game Commission for Regulation Change

Form NUMBER (New 9/29/2014)

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Tracking Number: (yy-mm-dd-numseq-ver)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via facsimile to (916) 653-5040 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the categories listed on this form. A petition will also be rejected if it does not pertain to issues under the Commission's authority, or if a similar regulation change was considered within the previous 12 months and no new information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: General Information.

1. Date: (mm/dd/yyyy)
2. Person or organization requesting the change:
 Name of primary contact person:
 Address:
 Telephone number:
 Email address:
3. Category of Proposed Change:
 - Sport Fishing
 - Commercial Fishing
 - Hunting
 - Other, please specify: _____
4. The proposal is to: (*To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>*)
 - Amend Title 14 Section(s):
 - Add New Title 14 Section(s):
 - Repeal Title 14 Section(s):
 - Unknown
5. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition:
 - Not applicable.
6. List of Authority/Reference Citations, if known:
 (see <https://govt.westlaw.com/calregs>)

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Petition to the California Fish and Game Commission for Regulation Change

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SECTION II: Proposal.

Please be succinct. Responses for Section II should not exceed five pages, excluding supporting documentation (Item 10)

7. Overview: Summarize the proposed changes to regulations:
8. Rationale: Describe the problem and the reason for the proposed change. If the proposal is related to a previously submitted petition that was rejected, use highlight or bold font to emphasize the new information and/or data provided:
9. Effective date: Identify the desired effective date of the regulation. (mm/dd/yyyy)
If the proposed change requires immediate implementation, explain the nature of the emergency:
10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents:
11. Economic or Fiscal Impacts: Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing:
12. List any forms to be created, amended or repealed: _____ Unknown

SECTION III: FGC Staff Only:

Date received:

FGC staff action:

- Accept - complete application
- Reject - incomplete application
- Reject - outside scope of FGC authority
- Reject - same as petition [Tracking Number]

Date petitioner was notified of receipt of petition and pending action:

Meeting date for FGC consideration:

FGC action:

- Rejected by FGC
- Accepted for consideration of regulation change
- Referred for further evaluation: (program and/or individual)