

STAFF SUMMARY FOR DECEMBER 7-8, 2016

2. PUBLIC FORUM (DAY 1)**Today's Item****Information** **Action**

Receipt of public comments and requests for regulatory and non-regulatory actions.

Summary of Previous/Future Actions

- **Today's receipt of requests and comments** **Dec 7-8, 2016; San Diego**
- Direction to grant, deny, or refer requests input **Feb 8-9, 2017; Santa Rosa**

Background

This agenda item is primarily to provide the public an opportunity to address FGC on topics not on the agenda. Staff also delivers written materials and comments received prior to the meeting for FGC receipt as exhibits in the meeting binder (if received by comment deadline), or as late comments at the meeting (if received by late comment deadline).

Public comments are generally categorized in three types under public forum: 1) Requests for regulatory action; 2) requests for non-regulatory action; and 3) informational-only comments. Under the Bagley-Keene Open Meeting Act, FGC cannot discuss any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, regulatory and non-regulatory requests generally follow a two-meeting cycle (receipt and direction): FGC will determine the outcome of the regulatory and non-regulatory requests received at today's meeting at the next FGC meeting following staff evaluation.

As required by the Administrative Procedure Act (APA), regulatory requests will be either denied or granted and notice made of that determination. Action on requests received at previous meetings is scheduled under a separate agenda item called "Petitions for regulation change and non-regulatory requests from previous meetings."

Significant Public Comments

1. Regulatory petitions are summarized in Exhibit 1 and provided in Exhibits 3-5.
2. Non-regulatory requests are summarized in Exhibit 2 and provided in Exhibits 6.

Recommendation

Consider whether any new future agenda items are needed to address issues that are raised and within the FGC's authority.

Exhibits

1. [Summary of new petitions for regulation change received by Nov 22 at 5:00 p.m.](#)
2. [Summary of new non-regulatory requests received by Nov 22 at 5:00 p.m.](#)
3. [Petition # 2016-026: jacketed frangible bullets](#)
4. [Petition # 2016-028: fire service validation of deer and elk tags](#)
5. [Petition #2016-029: Big Lagoon Rancheria exemption at Reading Rock MPA](#)
6. [Individual non-regulatory requests for action](#)

Motion/Direction (N/A)

**CALIFORNIA FISH AND GAME COMMISSION
RECEIPT LIST OF PETITIONS FOR REGULATORY ACTION - RECEIVED BY 5 PM ON NOVEMBER 22, 2016**

FGC - California Fish and Game Commission DFW - California Department of Fish and Wildlife WRC - Wildlife Resources Committee MRC - Marine Resources Committee

Tracking No.	Date Received	Response Due (10 work days)	Response Letter to Petitioner	Accept or Reject	Name of Petitioner	Subject of Request	Code or Title 14 Section Number	Short Description	FGC Decision
2016-026	11/17/2016 (revised and resubmitted from original 10/17/2016 version)	10/31/2016	11/18/2016	A	Dustin Worrell	Jacketed frangible bullets	353, T14	Permit use of jacketed frangible bullets (DRT) as authorized ammunition for big game hunting.	Receipt scheduled 12/7-8/2016 Action scheduled 2/8-9/2017
2016-027	10/26/2016	11/9/2016		R	Patricia Smith Rollins, Inc.	Trap placement permissions	456.5(g)(3), T14	Allow trapping for and removal of wildlife from private property without the permission of nearby land, home, structure and/or property owners.	Rejected under staff review for failure to identify authority.
2016-028	10/26/2016	11/9/2016	11/2/2016	A	Sean Campbell Arcata Fire District	Firefighters validate deer and elk tags	708.6, T14	Request to update regulations to clarify which members of the fire service are authorized to validate deer and elk tags.	Receipt scheduled 12/7-8/2016 Action scheduled 2/8-9/2017
2016-029	11/22/2016 (revision submitted to original 10/31/2016 version)	12/2/2016	11/22/2016	A	Susannah Manning	MPA take exemption for Big Lagoon Rancheria	632(b)(6), T14	Provide a tribal take exemption for Big Lagoon Rancheria at Reading Rock SMCA	Receipt scheduled 12/7-8/2016 Action scheduled 2/8-9/2017

CALIFORNIA FISH AND GAME COMMISSION
RECEIPT LIST OF REQUESTS FOR NON-REGULATORY ACTION - RECEIVED BY 5 PM ON NOVEMBER 22, 2016

FGC - California Fish and Game Commission **DFW** - California Department of Fish and Wildlife **WRC** - Wildlife Resources Committee **MRC** - Marine Resources Committee

11/22/2016	Justin Mezey	New mussel gear	Request for an experimental permit to test a mussel grow-out trap.	Receipt scheduled 12/7-8/2016 Action scheduled 2/8-9/2017
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2016-026
Tracking Number: ~~(Click here to enter text.)~~

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 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 required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no 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: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

Person or organization requesting the change (Required)

Name of primary contact person: Dustin Worrell

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: **We were on the approved list and then taken off, by the CA Fish and Game for the fact that we were labeled as "frangible". Our hunting rounds are just like a Berger bullet, except non lead. They do break into several pieces, but only after they have gone through bone and muscle. This a very effective big game hunting bullet.**
3. **Overview (Required)** - Summarize the proposed changes to regulations: I propose that you allow DRT bullets to be used for the hunting of Big Game in California. We make a Jacketed bullet, so I proposed that you allow jacketed Frangible bullets in California for hunting. Regular frangible rounds would not work on big game, and I believe that is what the law is referring to. Since our bullets are a new design, being a Jacketed Frangible, I think you find that they work much better than standard frangible as well as any lead bullet out there.
4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: The issue is that non lead bullets generally wound a lot of animals instead of effectively killing them. This is a big problem for the state to deal with as no one wants to wound game. Our bullet is a great non lead option that effectively takes down big game quickly and efficiently. Other bullets such as the Barnes Triple Shock will go through and through without causing big wound cavities. All of our Terminal Shock bullets will go through bone and muscle tissue without expanding and then will expand on the soft tissues (organs) and then become "frangible". These are jacketed rounds just like any other lead bullet.

SECTION II: Optional Information

Date of Petition: 10/17/2016

Category of Proposed Change

- Sport Fishing
- Commercial Fishing
- Hunting
- Other, please specify: Click here to enter text.

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):353.
- Add New Title 14 Section(s): Click here to enter text.
- Repeal Title 14 Section(s): Click here to enter text.

If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition Click here to enter text.

Or Not applicable.

- 9. **Effective date:** If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: 11/1/16
- 10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: I have attached pics of big game shot with DRT projectiles
- 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: NA
- 12. **Forms:** If applicable, list any forms to be created, amended or repealed:
Title 14:353

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:

- Accept - complete
 - Reject - incomplete
 - Reject - outside scope of FGC authority
- Tracking Number

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

Meeting date for FGC consideration: _____

FGC Received
 11/17/2016
 2:55pm



FGC action:

- Denied by FGC
- Denied - same as petition _____
Tracking Number
- Granted for consideration of regulation change



Tracking Number: (Click here to enter text.) *2016-028*

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 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 required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no 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: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Sean Campbell

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game Code, Section 4341

3. Overview (Required) - Summarize the proposed changes to regulations: I believe the new wording could be as follows: ***On duty firefighter of any rank, working for a recognized fire agency within the State of California (Local government Firefighter, Special District Firefighter, County Firefighter, State Firefighter, and Federal Firefighter)***

4. Rationale (Required) - Describe the problem and the reason for the proposed change: The code lists a *County fireman at or above the class of foreman* is an approved person to validate deer and elk. This language is outdated and no longer used in the California Fire Service. I believe the intent of this language is to allow on duty firefighters be allowed to validate deer and elk in their fire stations. Our department has been validating deer and elk for over 30 years but has recently discontinued this practice because we are not "County Fireman" and don't have "Foreman's" in our rank structure. We asked our local Wardens and received mixed answers on whether we were allowed to validate deer and elk. There is confusion amongst the response we received. Some believe the intent of the code allows us to validate, while others believe we would be violating the code if we are not County Fireman. If the language was updated, our department would likely continue with the service of deer/elk validation at our fire stations. This is a service that our community appreciated because our personnel were easy to contact and our facilities are centrally located within the community.



SECTION II: Optional Information

5. **Date of Petition: 10-26-16**

6. **Category of Proposed Change**
 - Sport Fishing
 - Commercial Fishing
 - Hunting
 - Other, please specify: *Click here to enter text.*

7. **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):708.6 (c)(1.)(C)(1.)
 - Add New Title 14 Section(s): *Click here to enter text.*
 - Repeal Title 14 Section(s): *Click here to enter text.*

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** *Click here to enter text.*
 Or Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: It would be a benefit to have this change occur before the 2017 Regulations guide is published.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Not Applicable

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: None

12. **Forms:** If applicable, list any forms to be created, amended or repealed:
 None

SECTION 3: FGC Staff Only

Date received: *Click here to enter text.*

FGC staff action:

- Accept - complete
 - Reject - incomplete
 - Reject - outside scope of FGC authority
- Tracking Number

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

Meeting date for FGC consideration: _____

RECEIVED
 CALIFORNIA
 FISH AND GAME
 COMMISSION
 2016 OCT 26 PM 2:20
 AM 10/21 NRS



FGC action:

- Denied by FGC
- Denied - same as petition _____
Tracking Number
- Granted for consideration of regulation change



2016-029

Tracking Number: (~~Click here to enter text.~~)

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 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 required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no 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: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Susannah Manning

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: 200, 202, 205(c), 220, 240, 1590, 1591, 2860

3. Overview (Required) - Summarize the proposed changes to regulations: Big Lagoon Rancheria would like to be exempt from the regulations at the Wedding Rock area MLPA.

11/22/2016: Correction from "Wedding Rock" to "Reading Rock"

4. Rationale (Required) - Describe the problem and the reason for the proposed change: Members of Big Lagoon would like to reserve the right to fish and forage in the area of Wedding Rock as our ancestors did historically.

SECTION II: Optional Information

5. Date of Petition: October 10, 2016

6. Category of Proposed Change

- Sport Fishing
- Commercial Fishing
- Hunting
- Other, please specify: Tribal take exemption



- 7. **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):632
 - Add New Title 14 Section(s): *Click here to enter text.*
 - Repeal Title 14 Section(s): *Click here to enter text.*
- 8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** *Click here to enter text.*
Or Not applicable.
- 9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: As soon as possible
- 10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: A factual history of the tribal uses, historic and/or current, will follow at a later date.
- 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: *Click here to enter text.*
- 12. **Forms:** If applicable, list any forms to be created, amended or repealed:
Click here to enter text.

SECTION 3: FGC Staff Only

*FGC Received
10/31/2016 @ 4:01pm*

Date received: *Click here to enter text.*

FGC staff action:

- Accept - complete
 - Reject - incomplete
 - Reject - outside scope of FGC authority
- Tracking Number

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

Meeting date for FGC consideration: _____

FGC action:

- Denied by FGC
- Denied - same as petition _____
Tracking Number
- Granted for consideration of regulation change

From: [Susannah Manning](#)
To: [Pope, Elizabeth@Wildlife](mailto:Pope.Elizabeth@Wildlife)
Cc: [FGC](#)
Subject: Re: Petition 2016-029 Wedding Rock
Date: Tuesday, November 22, 2016 11:44:56 AM

Hello,

Can this please serve as the correction to the petition I submitted changing the area of interest to Reading Rock from Wedding Rock? Sorry, again, for my mistake and the confusion it caused!

Thank you for your patience,
Susannah Manning

> On Nov 21, 2016, at 9:53 AM, Pope, Elizabeth@Wildlife <Elizabeth.Pope@wildlife.ca.gov> wrote:

>

> Susannah,

>

> Thank you for the clarification on the Wedding Rock/Reading Rock issue. Can you please make the correction to the petition and re-submit? Please feel free to contact me if you have any questions.

>

> -Elizabeth

>

> Elizabeth Pope

> Acting Senior Marine Environmental Scientist

> California Fish and Game Commission (On Assignment)

> California Department of Fish and Wildlife

> 707-445-5301

> Elizabeth.Pope@Wildlife.ca.gov

> <image001.jpg>

> SaveOurWater.com · Drought.CA.gov

>

>

> From: Susannah Manning [

> Sent: Saturday, November 19, 2016 4:02 PM

> To: Pope, Elizabeth@Wildlife

> Subject: Re: Petition 2016-029 Wedding Rock

>

> Hello,

> That was my mistake, sorry! I live by wedding rock and I used that name by habit; I meant to say Reading Rock.

> Thank you,

> Susannah Manning

>

> On Nov 18, 2016, at 2:42 PM, Pope, Elizabeth@Wildlife <Elizabeth.Pope@wildlife.ca.gov> wrote:

>

> Hello Susannah,

>

> I am looking to confirm information on the petition for regulation change that you submitted to the California Fish and Game Commission. In the petition overview section the request is stated as follows: "Big Lagoon Rancheria would like to be exempt from the regulations at the Wedding Rock area MLPA."

>

> Do you mean Wedding Rock near Patrick's Point? If so, that area is not included within an existing marine protected area (MPA) designated under the Marine Life Protection Act (MLPA). Or are you referring to Reading Rock in the Crescent City area (by another name)?

>

> Please feel free to respond directly to this message or to call the number listed below. Thank you for helping to clarify the information.

>

From:
To: [FGC](#)
Subject: MUSSEL FISH TRAP.
Date: Tuesday, November 22, 2016 3:18:56 PM

TO: THE FISH AND GAME COMMISSION CONSIDER ISSUING ME JUSTIN MEZEY....
A PERMIT TO TEST THE GEAR...MUSSEL FISH TRAP THAT I HAVE
DEVELOPED...AND HAVE PROVIDED INFORMATION AND PICTURES...BYE E-
MAIL...TO THE STAFF OF THE FISH AND GAME COMMISSION...
THANK YOU ...JUSTIN MEZEY.

PLEASE RESPOND

From:
Sent: Tuesday, August 30, 2016 3:25 PM
To: FGC
Subject: Fwd: FISH TRAP FOR MUSSELS

----- Forwarded message -----

From: "
Date: Aug 4, 2016 11:36 AM
Subject: FISH TRAP FOR MUSSELS
To: "Kirsten@Wildlife Ramey"
Cc:

Kirsten...What do i have to do to get a state licence for MUSSEL TRAP???
Please Advise...
Thanks Justin Mezey

From:
Sent: Tuesday, August 30, 2016 3:24 PM
To: FGC
Subject: Fwd: Re: Taking of mussels...Commercial Fishing

----- Forwarded message -----

From: "
Date: Jul 21, 2016 4:45 PM
Subject: Re: Taking of mussels...Commercial Fishing
To: "Ramey, Kirsten@Wildlife"
Cc:

Kirsten...I wish to get certification from the FISH and wildlife...
FOR my new fish trap...
To be used for the taking of Mussels under the state Fish and game...CODE...
MUSSELS WILL BE TRAPPED IN THE FIBERS OF THE LINE...after the line is full...you
pull the whole trap...and you can set a new one...
Trap is made from two cement blocks...for anchors...
And about 150 ft.of 3/8 in.carb line...and two crab floats...
See pictures...
Thanks Justin Mezey

From:
Sent: Tuesday, August 30, 2016 3:18 PM
To: FGC
Subject: Fwd: Re:COM. FISH TRAP FOR MUSSELS...

----- Forwarded message -----

From: "
Date: Aug 30, 2016 3:15 PM
Subject: Re:COM. FISH TRAP FOR MUSSELS...
To: "Theresa SPL Stevens"
Cc: <fgc@fgc.ca.gov>

On Jul 22, 2016 12:38 PM, "

wrote:

Theresa...FISH TRAP...
150ft. Crab line...two 90 lb blocks of concrete for anchors...and two crab pot floats...
The MUSSEL are trapped inside the FIBERS of the line...
And can be fished like a crab TRAP...
THANKS JUSTIN MEZEY.
PLEASE ADVISE

On Jul 22, 2016 12:27 PM,

wrote:

Theresa...Here is my MUSSEL TRAP...
Needs to be exempt from and Coastal Com...permit...
Will forward you pictures...TRAPPING AND COM. FISHING IS REGULATED BY THE
F.W....
PLEASE CALL ME FOR MORE INFORMATION...
THANKS JUSTIN MEZEY.



