

STAFF SUMMARY FOR OCTOBER 19-20, 2016

12. MARINE PETITIONS AND NON-REGULATORY REQUESTS FROM PREVIOUS MEETINGS**Today's Item****Information** **Action**

This is a standing agenda item for FGC to act on regulatory petitions and non-regulatory requests from the public that are marine in nature. For this meeting:

- (A) Action on petitions for regulation change received at the Aug 2016 meeting.
- (B) Action on requests for non-regulatory requests received at the Aug 2016 meeting.
- (C) Update on pending petitions and non-regulatory requests referred to staff or DFW for review.

Summary of Previous/Future Actions**(A-B)**

- FGC receipt of new petitions and requests Aug 24-25, 2016 Folsom
- **Today FGC action on petitions and requests from Aug Oct 19-20, 2016; Eureka**

(C)

- **Today update and possible action on previous referrals Oct 19-20, 2016; Eureka**

Background

FGC provides direction regarding requests from the public received by mail and email and during public forum at the previous FGC meeting. Public petitions for regulatory change or requests for non-regulatory action follow a two-meeting cycle to ensure proper review and consideration. Petitions for regulatory change or requests for non-regulatory action scheduled for consideration today were received at the Aug 2016 meeting in three ways:

- (1) submitted by the comment deadline and published as tables in the meeting binder;
- (2) submitted by the late comment deadline and delivered at the meeting; or
- (3) received during public forum.

The public request logs provided in exhibits A1 and B1 capture the regulatory and non-regulatory requests received at the last meeting that are scheduled for FGC action today. The exhibits contain staff recommendations for each request.

- (A) Petitions for regulatory change: As of Oct 1, 2015, Section 662, Title 14, requires that any request for FGC to adopt, amend, or repeal a regulation must be submitted on form "FGC 1, Petition to the California Fish and Game Commission for Regulation Change". Petitions received at the previous meeting are scheduled for consideration at the next business meeting, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

Two marine petitions received in Aug 2016 are scheduled for action (see summary table Exhibit A1 and individual petitions in exhibits A2, A3).

- (B) Non-regulatory requests: Requests for non-regulatory action received at the previous meeting are scheduled for consideration today.

Two non-regulatory requests received verbally at the Aug 2016 FGC meeting are scheduled for action at this meeting (See summary table in Exhibit B1).

STAFF SUMMARY FOR OCTOBER 19-20, 2016

- (C) Pending petitions and non-regulatory requests: This item is an opportunity for staff to provide an evaluation and recommendation on items previously referred by FGC to DFW or FGC staff for review. FGC may act on any staff recommendations made today. No updates on pending items were received for this meeting.

Significant Public Comments (N/A)**Recommendation**

- (A-B) Adopt staff recommendations for the regulatory and non-regulatory requests to (1) deny the request, (2) grant the request, or (3) refer the request to committee, DFW staff, or FGC staff for further evaluation or information gathering. See exhibits A1 and B1 for specific staff recommendations for each request.
- (C) N/A

Exhibits

- A1. [FGC table of marine requests for regulatory change received through Aug 25, 2016](#)
- A2. [Petition #2016-018 \(Open Santa Cruz Harbor-Salmon outside of current season\)](#)
- A3. [Petition #2016-021 \(Pink Shrimp Trawl Permit\)](#)
- B1. [FGC table of marine requests for non-regulatory change received through Aug 25, 2016](#)

Motion/Direction

- (A-B) Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on August 2016 regulatory and non-regulatory requests.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on August 2016 regulatory and non-regulatory requests, except for item(s) _____ for which the action is _____.

CALIFORNIA FISH AND GAME COMMISSION
 DECISION LIST FOR REGULATORY ACTION THROUGH Aug 25, 2016
 Revised 10-7-2016

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

Grant: FGC is *willing to consider* the petition through a process **Deny:** FGC is *not willing to consider* the petition **Refer:** FGC *needs more information* before deciding whether to grant or deny the petition

 **Green cells:** Referrals to DFW for more information  **Blue cells:** Referrals to FGC staff or committee for more information
 **Lavender cells:** Accepted and moved to a rulemaking  **Yellow cells:** Current action items

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	Staff Recommendation	FGC Decision
2016-018	8/19/2016	9/2/2016	8/30/2016	A	Neli Cardoso	Santa Cruz Harbor Salmon Fishing		To immediately open the Santa Cruz Harbor to salmon fishing	STAFF RECOMMENDATION: DENY for 2017-18 cycle. GRANT; consider with 2018-19 regulations	RECEIPT: 8/24-25/16 ACTION: Scheduled 10/19-20/16
2016-021	8/24/2016	9/8/2016	9/9/2016	A	Scott Fosmark	Northern Pink Shrimp Trawl Permits	120.2	To evaluate and increase the number of Northern Pink Shrimp Trawl Permits relative to the capacity goals.	STAFF RECOMMENDATION: DENY; this is not a rulemaking action under FGC authority. Petitioner is referred to DFW for consideration.	RECEIPT: 8/24-25/16 ACTION: Scheduled 10/19-20/16



Tracking Number: (2016-018)

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: Neli Cardoso

Address:

Telephone number:

Email address:

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Authority 205 and Authority 207

3. Overview (Required) - Summarize the proposed changes to regulations.

- I would like you to consider opening in the Santa Cruz Harbor for fishing for Salmon starting immediately and ending November 1, 2016.

4. Rationale (Required) - Describe the problem and the reason for the proposed change: The Santa Cruz Harbor is a very different habitat compared to the rest of the Monterey Bay Area for Salmon. The salmon (who come into the Harbor are from the wonderful Salmon Project) do not spawn, they die often eaten by sea lions who damage docks. The Salmon Project has been a part of the Harbor for years. The Harbor has the Salmon in the Harbor who are going to die. We have in the past had a lot of fishermen and fisherwoman fish at the Jetties and catch delicious nutritious salmon. This lowers the number of Salmon in the Harbor. Often those who catch Salmon are lower economic individuals who cannot afford a boat or cannot afford to go out in a charter to go Salmon fishing. So all the Salmon in the



Harbor are just going to die this year. Not only are the Salmon in the Harbor not going to benefit anybody but because there are going to be more Salmon in the Harbor than usual because nobody is allowed to catch Salmon because the season is closed the abundance of Salmon will actually cause more damage to docks because there will be more sea lions because there will be more food, (Salmon in the Harbor). It seems to me that you the Department of Fish and Game Commission can, (I am sure you all want to make catching Salmon in the Harbor legal), find a way to make Salmon fishing in the Santa Cruz Harbor legal for the next few months. I know there are homeless individuals who in the past have caught Salmon. I know there are people down on their luck who have caught Salmon who could never afford to buy Salmon except in cat food cans. Please make this happen.

SECTION II: Optional Information

5. **Date of Petition:** 8/17/2016
6. **Category of Proposed Change**
Sport Fishing
7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
X Amend Title 14 Section(s): 28 I can't find Salmon in California Ocean Sport Fishing Regulations book. Staff please help me with this.
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition**
Or X 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: Immediately August 24 or 25-November 1,2016.
The Salmon are beginning to be in the Harbor now and will increase.
- 10 **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: I've see human beings down on their luck catch Salmon and they are more than excited.
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: The impact on the Salmon not being caught to the Docks of the Harbor will be potentially expensive if the docks have to be repaired and extra time will have to be spent by Harbor officials which is money in salaries and possible overtime out of the Harbors budget to get the seal lins off the docks. The benefit to



2016-021

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.

RECEIVED AT

SECTION I: Required Information.

AUG 24 2016

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

COMMISSION MEETING
AGENDA ITEM 2

1. **Person or organization requesting the change (Required)**
 Name of primary contact person: Scott Fosmark
 Address:
 Telephone number:
 Email address:
2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: **The authority for this request falls with the Commission under the direction of the Department. Authority Cited: Sections 713, 1050, 8591, 8841, and 8842, Fish and Game Code. Reference: Sections 1050, 7852.2, 7858, 8101, 8591, 8841 and 8842, Fish and Game Code.**
3. **Overview (Required)** - Summarize the proposed changes to regulations: I propose the Commission act on the Regulation already ratified as it relates to the capacity goal for CA Northern Pink Shrimp Trawl Permits, written in Section 120.2, Title 14, CCR, (H) (2). The Capacity goal for transferable permits shall range from 75 up to the number of permits originally issued, and for non-transferable permits to range of 0 to up to the number of permits originally issued. (See Exhibit 1 Attached)
4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: Currently, and for the last 5 years there has only been 32 Transferable CA Northern Pink Shrimp Trawl permits and 3 non-transferable permits (See Attached Exhibit 2). The fishery is grossly under utilized and well under the capacity goal stated in section 120.2, Title 14, CCR, (H) (2). I ask the commission to act on it's regulation and issue a ruling / directive to the department of licensing & revenue to issue a CA Northern Pink Shrimp Trawl Permit to my vessel in order to utilize the fishery. The Pink Shrimp in Northern CA are abundant and there are not enough permits to utilize the fishery. I am 5th generation in the CA commercial fishing



industry and it's a shame I have to now operate my boat in Oregon simply because there are no California Northern Shrimp Permits available. In fact, I have never even seen one for sale or lease in the last 10 years. There are not enough permits and the only permits left are owned by multi-million-dollar out of state residents that have giant Vessels that primarily fish Drag Fish in the Pacific North West (Oregon & Washington States). To be perfectly clear, one might say they have a monopoly on the entire CA Northern Pink Shrimp Trawl fishery, with only 32 Vessel Permits outstanding, they decide to fish this fishery whenever it convenient. For the last 10 years this select group has been fishing other fisheries and just holding the fishing rights while the product goes unharvested. In summary, and for the obvious reasons stated above, the California Northern Pink Shrimp Trawl fishery is certainly under utilized according to the departments capacity goal (section 120.2, title 14, CCR, H), and according to public record the FGC and DFW has been out of compliance in monitoring their own Capacity Goal regulations for many years. Unfortunately California ports, fishermen, processors, cities, restaurants, and even consumers have all suffered from this loss of potential revenue, production, and employment.

SECTION II: Optional Information

RECEIVED AT

5. **Date of Petition:** 8/25/2016

AUG 24 2016

6. **Category of Proposed Change**

Sport Fishing

* Commercial Fishing

Hunting

Other, please specify: Click here to enter text.

COMMISSION MEETING
 AGENDA ITEM 2

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): Section 120.2, Title 14, CCR, H

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: Immediately, as the FGC is out of compliance in following their own regulation.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents:

a. Exhibit 1- Regulation Section 120.2, Title 14, CCR



- b. Exhibit 2- Public Record CA Dept Fish & Wildlife Commercial Fishing Licenses and Permits
- c. Exhibit 3- 2016-2017 Commercial Boat Registration Worksheet for processing the newly issued Northern Pink Shrimp Trawl Permit

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: Acting on this request will essentially provide the fishermen & ports of California with millions of dollars in revenue. At one time the Northern CA Pink shrimp industry was valued at \$7 Million dollars (source: Information Concerning the Prink Shrimp Trawl Fishery off Northern California, Report to California Fish and Game, 12/24/2007). Acting on this petition would mean bringing these jobs & revenue back to the state. With the CA Salmon and Crab fishery hurting over the last few years now is the perfect time to make this resource available for harvesting. In addition, Morro Bay is desperately trying to rebuild it's fishing community and this would be a perfect place for a new processing facility.
12. **Forms:** If applicable, list any forms to be created, amended or repealed: 2016-2017 Commercial Boat Registration Worksheet (DFW 1309) REV. 1/16. This form should have an additional box to indicate New Issue Northern Shrimp Trawl Permit.

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

*August 24, 2016
@ Commission Meeting*

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: September 9, 2016

Meeting date for FGC consideration: October 19-20, 2016

FGC action:

- Denied by FGC
- Denied - same as petition _____

Tracking Number

- Granted for consideration of regulation change

CALIFORNIA FISH AND GAME COMMISSION
DECISION LIST FOR NON-REGULATORY ACTION THROUGH AUG 25, 2016
 Revised 10-6-2016

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

Date Received	Name of Petitioner	Subject of Request	Short Description	Staff Recommendation	FGC Decision
8/24/2016	Bernard Freeman	State Water Bottom Leases	Requests FGC to modernize the provisions of and establish more state water bottom leases.	STAFF RECOMMENDATION: REFER to FGC; DFW and FGC are working on review of aquaculture permits	RECEIPT: 8/24-25/2016 ACTION: Scheduled 10/19-20/2016
8/24/2016	Paul Weakland	MRC meetings	Request to video record the MRC meetings.	STAFF RECOMMENDATION: DENY; at this time Committee meetings are being audio recorded.	RECEIPT: 8/24-25/2016 ACTION: Scheduled 10/19-20/2016