

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Repeal Section 660
Title 14, California Code of Regulations (CCR)
Re: Election of Commission Officers

I. Date of Initial Statement of Reasons: March 15, 2012

II. Date of Final Statement of Reasons: May 14, 2012

III. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: March 7, 2012
Location: Riverside, CA

(b) Discussion/Adoption Hearing : Date: May 23, 2012
Location: Monterey, CA

IV. Update:

No changes have been made to the proposed regulatory language.

The Fish and Game Commission adopted the proposed amendment to repeal Section 660 at its May 23, 2012 meeting.

V. Summary of Public Recommendations and Primary Considerations Raised in Support of and in Opposition to the Proposed Action and Reasons for Rejecting Those Considerations:

(a) Description of Proposed Action by Public: Fully supports the Commission in electing or appointing a President and Vice President but disagrees with repealing Section 660 in its entirety. Suggests amending the regulatory language to include critical components such as: 1) when the election will take place; 2) how many votes are required; 3) how long a term will the official serve before requiring reelection; 4) how to fill a vacancy; 5) how many terms an officer can serve; and 6) how to remove an officer who is not performing adequately.

Proposal source: Joe Exline, (written comment on April 10, 2012).

Response:

1. Current regulations specify that the election of officers will take place at the Commission's February meeting. This requirement is too restrictive in that it does not address the possibility of lack of a quorum at the February meeting or

the necessity to hold an election mid-term due to vacancy or inadequacy of an officer to perform his/her duties. The proposed repeal of Section 660 removes this too-restrictive requirement.

2. Commission meetings are conducted pursuant to Robert's Rules of Order which addresses the number of votes needed.

3. In electing its officers through a democratic process, the Commission will designate the terms of its officers. This will allow the Commission to select any term of office it feels appropriate at the time of the election, such as for the remainder of the term of an officer whose position has become vacant.

4. Under the proposed repeal of Section 660, the Commission will not be limited to holding the election in February which will give it the flexibility to fill any vacancies immediately.

5. In repealing Section 660, it is the Commission's intent to not pre-determine the number of terms an individual can serve as president or vice president; rather the Commission will be able to democratically elect whomever it believes is most qualified.

6. The Commission does not believe that a regulation is needed to determine how to remove an officer who is not performing adequately; rather, this will be determined by majority vote.

The Commission operates under Robert's Rules of Order, and as such can decide to conduct an election whenever there is a majority interest. The term of the officers would also be established through a majority vote. In terms of isolating the election of officers from political influence, that makes no sense since elections are political.

- (b) Description of Proposed Action by Public: Opposed to the repeal of regulations for the following reasons: 1) Commenter states that the Commission should not vote on such a controversial matter when one of its members has not been "renominated" by the Governor. 2) Commenter recommends that no changes be made to Section 660 until the Commission's Conflict of Interest Code (Section 782, Title 14, CCR) is amended to include the exact disclosure categories for Commissioners as those for statutory filers.

Proposal source: Anthony Canales (written comment on May 15, 2012)

Response: 1. The Constitution of the State of California provides that Commissioners may serve "until their successors are appointed and qualified". Any Commissioner whose term has expired has the same authority and responsibility he/she had before the term expired.

2. Amendment of Section 782, Title 14, CCR, is outside the scope of the proposed rulemaking. Section 782 was legally adopted within the specifications of the Fair Political Practices Act which directs agencies the authority to decide the appropriate disclosure requirements, tailoring the disclosure requirements for each position within the agency to the types of governmental decisions a person holding that position would make.

All members of the Commission have been nominated by a governor per the California Constitution. The election of officers under Fish and Game Code Section 102 would be no more susceptible to corruption as under the current regulations. The Commissioners operate under a conflict of interest code currently.

- (c) Description of Proposed Action by Public: Supports a policy for the removal of a President who only gives a single minute to legitimate non profit organizations who spend hours of time to prepare for Commission meetings and hundreds of dollars for travel and lodging to be part of a public process. The Commission should show more respect for Californians who want to engage in natural resource issues.

Proposal source: Jennifer Fearing (oral comment at May 23, 2012 Commission meeting)

Response: The Commission does not believe that a regulation or policy is needed to determine how to remove an officer who is not performing adequately; rather, this will be determined by majority vote.

VI. Location and Index of Rulemaking File:

A rulemaking file with attached index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, CA 95814

VII. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No other alternatives were identified.

- (b) No Change Alternative:

The No Change Alternative would maintain the current language outlining the procedures for election of President and Vice President of the Commission.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes 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.

VIII. The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following 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. There are no economic or business impacts foreseen or associated with the proposed regulation change.

(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.

The Commission does not anticipate any non-monetary benefits to worker safety.

The Commission does not anticipate any benefits to 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.

Updated Informative Digest/Policy Statement Overview

Current law (Section 102, Fish and Game Code) provides that the Fish and Game Commission (Commission) has the authority to elect one of their number as President and one as Vice President.

Current regulations outline the procedures for election of President and Vice President of the Commission. The President shall be the most senior member and the Vice President shall be the next most senior member. Where the member declines to serve as President or Vice President, the next most senior member shall be elected to that office.

The current regulations establish succession provisions to elect the President and Vice President of the Commission. There were concerns raised about the continuity of election of officers as outlined in regulations in Section 660, Title 14, CCR, at the Commission's February 2, 2012 meeting. The Commission is proposing to repeal these regulations to be able to hold an official election of Commission officers.

The proposed regulatory action will benefit the Commission with a more democratic process to elect its officers.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

The proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Commission Action

At its May 23, 2012 meeting in Monterey, the Commission adopted the proposed amendment to repeal Section 660.