

STAFF SUMMARY FOR FEBRUARY 8-9, 2023

27. REGULATION CHANGE PETITIONS (MARINE)**Today's Item**Information Action

This is a standing agenda item for the Commission to receive new regulation change petitions and act on regulation change petitions received from the public at previous meetings. For this meeting:

- (A) Receive new petitions for regulation change
- (B) Act on previously received petitions for regulation change

Summary of Previous/Future Actions**(A) *New Petitions for Regulation Change - Receipt***

- **Today receive new petitions** **Feb 8-9, 2023**
- Potentially act on new petitions **Apr 19-20, 2023**

(B) *Regulation Change Petitions – Scheduled for Action*

- Receive new petitions **Dec 14-15, 2022**
- **Today's potential action on petitions** **Feb 8-9, 2023**

Background**(A) *Receive New Petitions for Regulation Change***

Pursuant to Section 662, any person requesting that the Commission adopt, amend, or repeal a regulation must complete and submit form FGC 1. Regulation change petition forms submitted by the public are received at this Commission meeting under (A) if they are delivered by the comment deadline (included in meeting materials) or by the supplemental comment deadline.

Under the Bagley-Keene Open Meeting Act, the Commission cannot discuss or take action on any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, petitions for regulation change generally follow a two-meeting cycle (receipt and direction); the Commission will determine the outcome of the petitions for regulation change received at today's meeting at the next regularly scheduled Commission meeting (currently April 19-20, 2023) under (B), following staff evaluation, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

The Commission received one new petition by the comment deadline; the petition is summarized in Exhibit A1 and provided as Exhibit A2.

(B) *Action on Previously-Received Petitions for Regulation Change*

Petitions received at the previous meeting are scheduled for Commission consideration at the next regularly scheduled business meeting under (B). A petition may be (1) denied, (2) granted, or (3) referred to a committee, staff, or the Department for further evaluation

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or information-gathering. Referred petitions are scheduled for action once the evaluation is completed and a recommendation made.

For today, one marine petition is scheduled for action:

- I. *Petition 2022-17*: Request to amend the number and type of buoys required for recreational crab traps (Exhibit B2)

The staff recommendation and rationale, developed with input from Department staff, is provided in Exhibit B1.

Significant Public Comments (N/A)

Recommendation

FGC staff: Refer Petition 2022-17 to the Department for review and recommendation, as reflected in Exhibit B1.

Exhibits

- A1. [Summary of new petitions for regulatory change received through January 26, 2023](#)
- A2. [Petition 2023-02, received January 24, 2023](#)
- B1. [Summary of petitions for regulatory change and staff recommendations for requests scheduled for action, updated January 26, 2023](#)
- B2. [Petition 2022-17, received October 11, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendation reflected in Exhibit B1 to refer Petition 2022-17 to the Department for review and recommendation.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendation as reflected in Exhibit B1, except _____.

CALIFORNIA FISH AND GAME COMMISSION

RECEIPT LIST FOR PETITIONS FOR REGULATION CHANGE: RECEIVED BY 5:00 PM ON JANUARY 26, 2023

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	Name of Petitioner	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Action Scheduled
2023-02	1/24/2023	Keith Rootsart	Recreational fishing: Groundfish depth limit	Request to prohibit take of groundfish shoreward of 100 feet in the Central Groundfish Management Area year-round to protect recovering kelp.	2/8-9/2023	4/19-20/2023



Tracking Number: (2023-02)

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, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 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: Keith Rootsart

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Section 200 and 205, Fish and Game Code.

3. Overview (Required) - Summarize the proposed changes to regulations: Amend sportfishing regulations to add 27.40, d, Title 14, CCR to read:

27.40. CENTRAL GROUND FISH MANAGEMENT AREA. This Section applies to take and possession of federally-managed groundfish species as defined in Section 1.91, California sheephead, ocean whitefish, and all greenlings of the genus Hexagrammos. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Central Groundfish Management Area means ocean waters between 37° 11’ N. lat. (at Pigeon Point, San Mateo County) and 34°27’ N. lat (at Point Conception, Santa Barbara County).

(b) Seasons and depth constraints (except as provided in subsection (c) below):

(1) January 1 through March 31: Closed.

(2) April 1 through December 31: Take of all species is prohibited seaward of a line approximating 34 For up-to-date groundfish and Pacific halibut regulation information, call the CDFW Groundfish Hotline at (831) 649-2801 For up-to-date ocean salmon regulation information, call the CDFW Ocean Salmon Hotline at (707) 576-3429 the 50-fathom depth contour along the mainland coast and along islands and offshore seamounts. The 50-fathom



depth contour is defined by straight lines connecting the set of 50-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart C).

(c) Leopard shark may be taken or possessed in Elkhorn Slough year-round.

(d) Take of all species is prohibited shoreward of a line approximating 100 feet.

4. Rationale (Required) - Describe the problem and the reason for the proposed change:

California’s Central Coast kelp forests are in rapid decline due to multiple stressors and in need of restoration if they are to continue to support the hundreds of species that live therein. The Marine Protected Area experiment proved that when fish are not taken from an area the kelp does better and species richness increases. Let’s do that! Our best chance of increasing kelp survivorship is to not fish in this ecosystem and remove functioning parts indiscriminately. The diving community is actively trying to improve kelp survivorship by removing urchins that are eating kelp and it is not fair and equitable for our community to be improving kelp survivorship while licensed individuals actively work to be detrimental.

Prohibiting fishing in the nearshore fish nursery also improves the sustainability of fishing and provides better fishing opportunities. Fishing should be available to all regardless of socio-economic status and an exception should be allowed to fish from shore on sandy habitat 300 feet away from rocky reefs. Fishermen may also assist with kelp restoration by acting as citizen science volunteers working under Scientific Collecting Permits to sample fish as determined by the Department.

SECTION II: Optional Information

5. Date of Petition:

6. Category of Proposed Change

Sport Fishing

Commercial Fishing

Hunting

Other, please specify:

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):

Add New Title 14 Section(s): 27.40, C

Repeal Title 14 Section(s):

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: April 2023



10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: see [Decadal Management Review](#)

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:

Initially reduced CDFW license revenues in the Central Coast Region and fishing-based businesses until fish nurseries are reestablished and then increased CDFW license and fishing-based revenues. Improved effectiveness of kelp restoration activities and improved safety of participants from fishing gear entanglement and boat traffic. Improved commercial harvest of all species due to improved rockfish recruitment nearshore.

12. Forms: If applicable, list any forms to be created, amended or repealed:

| N/A |

SECTION 3: FGC Staff Only

Date received: | 1/24/23 |

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: | 1/24/2023 |

Meeting date for FGC consideration: | 2/8-9/2023 |

FGC action:

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

Tracking Number

CALIFORNIA FISH AND GAME COMMISSION PETITIONS FOR REGULATION CHANGE - ACTION ON FEBRUARY 8-9, 2023

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 petitioned action through a process Deny: FGC is not willing to consider the petitioned action Refer: FGC needs more information before the final decision

Tracking No.	Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Receipt	FGC Initial Action Date	Initial Staff Recommendation
2022-17	10/11/2022	David Kasheta	Recreational fishing: Crab trap buoys	Request to amend the number and type of buoys required for recreational crab traps.	12/14-15/2022	2/8-9/2023	REFER to DFW for review and recommendation.



Tracking Number: (____2022-17____)

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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: David Kasheta

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: **Section 200, 205, 265, 275, 7074, 7078**

3. Overview (Required) - Summarize the proposed changes to regulations: Amend from one main buoy and marker buoy to two main buoys plus a marker buoy.

4. Rationale (Required) - Describe the problem and the reason for the proposed change: At times of strong currents the vertical line and buoy can become submerged making retrieval in a timely fashion impossible due to lack of buoyancy with only one main buoy. This increases the risk of gear loss and whale entanglements. Also, it is more difficult to sight and gaff/retrieve only one buoy during times of rough seas.

SECTION II: Optional Information

5. Date of Petition: October 12, 2022

6. Category of Proposed Change

Sport Fishing

Commercial Fishing

