

## Staff Summary for June 19-20, 2024

**28. 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 regulation change petitions

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

- **Today receive new petitions** **June 19-20, 2024**
- Potentially act on new petitions August 14-15, 2024

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

- Received Petition 2023-10 October 11-12, 2023
- Commission referred Petition 2023-10 to Department for review and recommendation December 13-14, 2023
- Received Petition 2024-02 April 17-18, 2024
- **Today potentially act on petitions** **June 19-20, 2024**

**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 if they are delivered by the public comment or supplemental comment deadlines or delivered in person to the Commission meeting.

Under the Bagley-Keene Open Meeting Act, the Commission cannot discuss or act on any matter not included on the agenda, other than to determine whether to schedule issues raised by the public for consideration at future meetings. Thus, petitions for regulation change generally follow a two-meeting cycle of receipt and decision. The Commission will act on petitions received at today’s meeting at the next regularly scheduled Commission meeting (currently August 14-15, 2024), following staff evaluation, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

No new petitions for regulation change were received by the comment deadline.

**(B) Act on Previously-Received Regulation Change Petitions**

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

## Staff Summary for June 19-20, 2024

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

Today, two petitions are scheduled for action:

1. *Petition 2024-02*: Re-open the red abalone fishery at San Miguel Island, Santa Barbara County, for recreational take and for commercial take under specific conditions (former commercial abalone divers only, catch quota, data collection).
2. *Petition 2023-10*: Allow recreational anglers to donate fish to non-profit organizations under a sport-caught fish exchange permit.

Staff recommendations for these petitions, developed with input from Department staff, are provided in Exhibit B1. See individual petitions in exhibits B2 and B3.

### Significant Public Comments

- B1. A resident near Big River supports Petition 2023-30MPA.
- B2. A southern California spearfisher opposes Petition 2023-33MPA, especially new state marine reserves, citing potential negative impacts on coastal communities.

### Recommendation

**Commission staff:** Deny petition 2024-02 and grant petition 2023-10.

**Department:** Grant petition 2023-10 for consideration in a rulemaking under specific conditions, dated May 20, 2024 (see Exhibit B4 for rationale).

### Exhibits

- B1. [Summary of petitions for regulation change scheduled for action](#)
- B2. [Petition 2024-02, received February 14, 2024](#)
- B3. [Petition 2023-10, received September 5, 2023](#)
- B4. [Department memo regarding Petition 2023-10, received May 20, 2024](#)
- B5. [Email from Sandra Kearney, received June 3, 2024](#)
- B6. [Email from Sean-Michael Oshiro, received April 20, 2024](#)

### Motion

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendations to deny petition 2024-02 and grant petition 2023-10.

**OR**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission adopts the staff recommendation for regulation change petitions, except: \_\_\_\_\_

\_\_\_\_\_.



Ms. Melissa Miller-Henson  
Executive Director  
California Fish and Game Commission  
715 "P" St. 16<sup>th</sup> Floor  
Sacramento, Ca 95814

February 1, 2024

Dear Ms. Miller-Henson:

Enclosed, please find two proposals:

- 1) Petition for Regulatory Change
- 2) Experimental Fishery Program

These proposals are intended to complement one another. We chose to do it this way out of respect for the California Fish and Game Commission (Commission) and the fact these instruments have been developed to support fishing.

Ours is an aging community. When abalone was closed in 1997, there were 101 commercial abalone divers. We recently were able to identify approximately 50 who are still active and interested. Of these individuals, we do not know how many might actually go fishing. But, with those who do, should the fishery reopen, we will soon know how many can still successfully participate.

Diving is difficult. We have divers with 10,000 to 40,000 hours underwater. There is one diver still diving sea urchins at the age of 80. Most of these divers are now age 60-70.

There are some advantages for the Department of Fish and Wildlife (Department) and Commission. First, these proposals could provide biological data which is currently not available. Second, there is a reported problem of \$25, million in organized crime poaching. The commercial divers,

in the field, watching out, will aid law enforcement. Third, a traditional fishery is restored. A win-win for all.

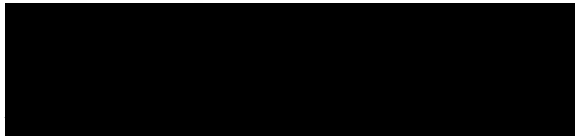
Thank you for your consideration of these proposals. We are also sending a copy of the Experimental Fishery Program proposal the Department in Monterey as directed.

If there are any questions, please contact me at your convenience.

Respectfully,



Steven L. Rebeck



Attachments

Cc: California Department of Fish and Wildlife  
Monterey



Tracking Number: (2024-02)

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: [Steven L. Rebeck (agent)]  
 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 29.15, Abalone 14CCR, S. 45, 100, 200, 203, 205, 206, 209, 210, 211, 215, 218, 219, 220, 265, 3990]
- 3. **Overview (Required) - Summarize the proposed changes to regulations:** [Restore commercial and recreational red abalone diving to San Miguel Island, Santa Barbara County, California south of San Francisco to pre-1998 status.]
- 4. **Rationale (Required) - Describe the problem and the reason for the proposed change:** [See attachment Rationale text]

**SECTION II: Optional Information**

- 5. **Date of Petition:** [February 1, 2024]
- 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): [Section 29.15. Abalone ]  
 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** [2019-027]  
 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: [July, August, September 2020]
- 10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: [See Rationale, Citations, and Supportive Literature]
- 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: [Creates funding for DFW , jobs for citizens and coastal communities]
- 12. **Forms:** If applicable, list any forms to be created, amended or repealed:  
 [Click here to enter text. ]

**SECTION 3: FGC Staff Only**

Date received: [02/14/2024 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

## Rationale and Overview by Steven L. Rebuck (Agent)

Senate Bill, 463 (Thompson) was passed by the California Legislature in 1997 and provided future management decision on abalone to the California Fish and Game Commission (FGC). FGC Section 5522 includes the following:

*"(e) if the Commission determines that commercial fishing is an appropriate management measure, priority for participation in the fishery shall be given to those persons who held a commercial abalone permit during the 1996-97 permit year."*

This Petition for Regulatory Change proposal is intended to:

- 1) Reopen the red abalone fishery at San Miguel Island, Santa Barbara County only.
- 2) Allow all former commercial abalone permit holders to participate. Qualifier: In 1997, the California Abalone Association (CAA) had a list of 101 permitted commercial abalone divers. Some DFG documents identified 105 divers. We are currently seeking out those former divers who are still living and have interest in resuming this fishery. As of January 31, 2024, we have identified 50+ former abalone divers who qualify under the terms identified above.
- 3) We propose that the identified Total Allowable Catch (TAC) for San Miguel Island (SMI) as identified in the Abalone Recovery and Management Plan (ARMP) Appendix H (AH) of 15,000 red abalone will be allocated equally between these divers. Each former diver would be permitted to harvest a personally identified share of the TAC between August 1, 2024 to December 31, 2024. Once this season is completed, depending on success, the resource may be reevaluated and the TAC raised or lowered as need should a



2025 fishery be considered. Revision of Fish and Game Code/ Regulations may be considered, early 2025.

- 4) Divers will be obligated to photograph using cell phone cameras, all individual abalone harvested. These data will be collected and transmitted promptly (Cell reception permitting) to DFW biological and law enforcement agents per this agreement.

#### RATIONALE/HISTORY/JUSTIFICATION/BIOLOGICAL FISHERY/TERRITORIAL USE RIGHTS/INDIVIDUAL TRANSFERABLE QUOTA

*" A biomass estimate of 3 million emergent abalone indicate a harvestable population of 75,000 to 150,000 red abalone at SMI. An initial total allowable catch (TAC) of 15,000 red abalone is proposed at SMI. Harvesting 10-20% of those abalone falls within the slot size should have a negligible effect on the population as a whole." Abalone Recovery and Management Plan, Appendix H, Page H-9*

#### RATIONALE

- 1) The range of red abalone, *Haliotis rufescens* is Sunset Bay, Oregon to Bahia Tortugas, Baja, Mexico. \_1/.
- 2) Red abalone, *Haliotis rufescens*, are not a State or Federal recognized threatened and/or endangered species.
- 3) Although this proposal is not an "Experimental Fishery" as defined by the California Fisheries Innovation Act of 2018 and Marine Fisheries Experimental Fishing Permits (2018), we propose to reestablish former abalone fishing regulations used prior to 1998, pursuant to the FGC citation above.
- 4) We propose using Abalone Advisory Group (AAG) Fishery Management Option A: Red Abalone Demonstration Fishery. \_2/.
- 5) The former commercial abalone divers of California support the use of the Abalone Recovery and Management Plan (ARMP) Appendix H (A-H)\_3/ as a management vehicle to reopen San Miguel Island, Santa Barbara County, for commercial and recreational red abalone diving using a Total Allowable Catch (TAC) limit of 15,000 for commercial red abalone fishing.

- 6) Multiple studies have been produced demonstrating the possibility of reestablishing commercial and recreational fisheries at San Miguel Island:(SUPPORT DOCUMENTS: 4/5/6/7/8)

## HISTORY

Drafting of what became A-H began in August 19, 2005 with the submission of a plan titled: "Components of an Experimental Commercial Red Abalone Fishery", Steven L. Rebuck, to the California Fish and Game Commission (Commission). Commission President Michael Flores requested staff (John Ugoretz) include this submission into the ARMP discussion. By September 2005, the California Abalone Association (CAA) had created a subcommittee to explore and draft a plan for San Miguel Island. A DRAFT of this plan was submitted to the Commission September 30, 2005. At this meeting, the Commission directed staff to work with CAA on this project. Originally, this effort was title Alternative 8. Within a couple years, a Technical Panel (TP) was formed and began drafting language for what became A-H. *\_6/ followed by a Review Panel\_7/. This effort coincided with the appointment of the Abalone Advisory Group (AAG).*

## JUSTIFICATION

A-H, as crafted, and included with the ARMP, offers a Fishery Management Plan (FMP) for SMI. A-H contains the following:

- \* Suggests use of ARMP required Index Sites, in coordination with California Department of Fish and Wildlife (DFW), Director's Abalone Advisory Committee (DAAC), National Park Service (NPS)/Kelp Forest Monitoring Program (KMP), and California Abalone Association (CAA).
- \* Identifies Collaborative Abalone Research Program (CARP) and Adams Cove, Castle Rock, and Crooks Point as Index Sites. CAA had previously installed on monitoring site at Tyler Bight, monitored by NPS/KMP.
- \*Identifies a Total Allowable Catch (TAC) for both commercial and recreational abalone fishing for red abalone only.
- \* Fisheries Management: Integrates Marine Protected Areas (MPAs) at SMI: Judith Rock, near Pt. Bennett, which includes Adams Cove.
- \* Use of Position Indicating Transponders (PIT).

\* Identifies Landing Taxes and Resource Rents.

\*Creates Fishery Dependent and Fishery Independent Data which DFW does not currently have.

\* Creates a financial stream for DFW, management and law enforcement, which they currently does not have.

We propose a domestic use fishery only. No export out of the USA.

## BIOLOGICAL FISHERY

As proposed by the California Department of Fish and Wildlife (DFW) this group of former commercial abalone divers support this concept.

- 1) All abalone harvested will be reported to DFW at the time of harvest. Photographs of ones fishing trip, location, time of day, dates, etc. will be reported, including Log Books.
- 2) Once a fishing trip is completed, the boat crew will contact DFW and report the estimated time of return to port.
- 3) Crew will meet with DFW biological team and/or law enforcement and allow them to examine all abalone harvested.
- 4) Once DFW biological team has examined and/or taken tissue samples, abalone may be marketed.
- 5) Catch reporting: Title 14, S 197, E-Tix, <http://etix.psmfc.org>

## TERRITORIAL USE RIGHTS for FISHING (TURF)

*"TURFs allocate exclusive harvest for one or more marine species in a specific area. TURFs are ideal for species like abalone that will not move beyond TURF boundaries, but they can be designed for more mobile species as well. TURFs may occur independently, or they may be part of a broader system of TURFs. Well designed networks of TURFs can be used to manage more complex fisheries, including those with mobile species or multiple groups of fishermen."*

What are TURF Reserves?

*"TURF Reserves are TURFs paired with no-take reserves, which are areas where no fishing is permitted. Theory and practice show that*

*fishermen have greater incentive to implement and enforce TURF Reserves because they directly benefit from the fish that spill over from no-take reserves to their TURF. The fishery management combination is growing in interest, allowing local government to reap the rewards of being responsible stewards of their fisheries."*

(Source: Environmental Defense)

### Individual Transferable Quota/Annual Catch Entitlement

Individual Transferable Quotas (ITQ) or Individual Fishery Quota (IFQ) are used in the United States and Internationally to manage fisheries. Commercial abalone divers are supportive of these concepts and propose transferability of permits be considered if there is support for an abalone fishery post 2024. Another concept being used successfully in New Zealand are Annual Catch Entitlement (ACE) which allows individual quota owners to lend or rent their existing quota allotments to other qualifying commercial fishermen.

### SUPPORTING LITERATURE

1. Cox, Keith, 1962, California Abalones, Family Haliotidae, Fish Bulletin 118, California Department of Fish and Game.
2. Abalone Advisory Group Report, January 29, 2010, Management Options for Establishing a Potential Red Abalone Fishery at San Miguel Island, Presentation to the Marine Resources committee of the California fish and Game Commission, February 16, 2010.
3. Appendix H. Proposed Amendments to Alternative 1 in ARMP as Submitted by Commercial Constituents to the Fish and Game Commission, an amendment to the Abalone Recovery and Management Plan, Alternative 1.
4. Taniguchi, Ian, D. Stein, K. Lampson, The San Miguel Island Red Abalone Resource: Results of Survey Conducted from July-October 2007, Marine Invertebrate Management Project, DFG.
5. Jloa, Yan, L. Rogers-Bennett, P. Crone, J. Butler, April 10, 2009, Appendix H.
6. Appendix B: DFG San Miguel Island Red Abalone Surveys (2006, 2007, 2008).

7. Prince, Jerome, California Abalone Marketing Association, February 6, 2012/Revised May 30, 2012, Proposal for Red abalone Research Fishery at San Miguel Island (SMI).
8. Bren School, 2010, Economic Viability and Sustainable Management of a California Red Abalone Fishing Cooperative.
9. Schiel, David R., S. Gerrity, S Orchard, 2023, Allocations, quota and abalone fishery management: the Tragety of the commons revisited, New Zealand Journal of Marine and Freshwater Research.
10. Rebuck, Steven L., 2003, Towards an orderly fishery: Establishing Annual Catch Entitlements (ACE) and Individual Transferable Quota (ITQ) for harvest of red abalone, Submission to the California Fish and Game Commission. 2003.

## Experimental Fishery Program (EFP)

Project Title: Subsistence Abalone Fishery at San Miguel Island, California, 2024

(Subsistence is defined as: the action or fact of maintaining or supporting oneself at a minimum level "the minimum income needed for subsistence." (Source: Google)

### 1) Applicant

\*Name: Steven L. Rebuck

\* Title and Affiliation: Agent for former commercial abalone divers with permits 1996-97.

\*Mailing Address: PO Box 571, San Luis Obispo, CA 93406

\* Email Address: ABSFORMAN@sbcglobal.net

Telephone Number: 895/540-1966

\*GOID or CFL Number:NA

### 2) Entity Administrator: Same

Repeat 1 list

### 3) Authorized Agents: See attached mailing list

\* Name

\* Title and Affiliation

\* Mailing Address

\*Email Address

\*Telephone Number

GOID or CFL Number

Repeat all Agents: Same

B. Statement of Purpose: Resume commercial abalone fishing at San Miguel Island, Santa Barbara County, California

1-Describe the purpose and goals of the proposed project, including how the project meets or is consistent with the policies of Fish and Game Code (FGC) Section 7050:

\*Experiment:

Commercial abalone divers will document their fishery using underwater Go-Pro cameras. Once catch is onboard the fishing vessel, fishermen will photograph their catch and forward data to Department of Fish and Wildlife biological and law enforcement. I-Pads may also be used to document catch as well as log books.

\*Fishery Biological Research:

Documenting the catch will provide DFW with data which is currently unavailable to them: Sex, maturity, size, size frequency, health and other factors will be documented. Also, oral history of how the commercial abalone fishery operates can be capture. Some of these divers have up to 40,000 hours underwater over many decades of diving. Much of this experience remains unknown to scientific data collectors. This is educational information.

\*Gather essential fishery information:

Go Pro cameras, Remote Operated Vehicles (ROVs), and cameral phones can revolutionize data collection. We propose to use these devices to collect biological data for research biologists, historians, sportsmen and others.

\*\_Implement a limited test fishery:

We propose to use the former commercial divers who had abalone permits in the 1996/97 season to fish and collect data. We also propose a season beginning August 1, 2024 and ending December 31, 2024.

\*\_Work with future approved participants to certify competency:

No divers are more competent to do this job than the former commercial abalone divers. We have identified

approximately 50% of these former divers who may still have the ability and equipment to fish abalone. These divers will help identify how many will be able to continue fishing in the future. Should the allocation of the ARMP/AH of 15,000 red abalone not be met, the balance of the TAC will remain in the water. Or, an in season adjustment in TAC may be advised.

\* Alternative Gear Testing:

The commercial abalone fishery has evolved over an approximate 175 year history. Tech-Diving, NITROX, mixed-gas, and other innovations may be used in future diving operations, along with ROVs, GoPros, and camera phones.

\* Provide necessary information:

Fishing operations will be limited to those who had active abalone permits in the 1996/97 abalone season. Regulations from this era are proposed for a 2024 season.

\* Work with CDFW Law Enforcement Division (LED):

Divers agree to work with DFW Law Enforcement. This includes reporting potential poaching operations cited by DFW, 2014: "...organized criminal gangs poaching \$25,000,000. of abalone annually in California."

\* Work with future CDFW approved participants:

Divers agree to work with DFW staff as required by DFW/FGC.

## Secondary Goals

\* Provide experience:

Former commercial divers have been recognized historically as "keen observers" of the abalone resource and fishery. (Bonnot, CDFG, 1948, et al).



\* Expand outreach opportunities with other fisheries: Individual Transferable Quota (ITQ) and Individual Fishery Quota (IFQ) are used in the United States and Internationally to manage and regulate commercial fisheries. The crab fishery in Alaska is a good domestic example.

2. Provide a list of proposed projects activities that are prohibited under current state fishing laws or regulations (cite the specific section number(s), if known, and the reasons to justify authorization (exemption) of those activities under the EFP:

A) California Fish and Game Commission, Section 5522 (e): "If the commission determines that commercial fishing is an appropriate management measure, priority for participation in the fishery shall be given to those persons who held a commercial abalone permit during the 1996-97 permit year."

B) FGC Sec.4. Section 1022 is added to the Fish and Game Code to read:

1022. (a) the commission may authorize, for research, education, limited testing, data collection, compensation, fishing, conservation engineering, or exploratory fishing, or any combination of these purposes, an EFP to be issued by the department that authorizes commercial or recreational marine fishing activity otherwise prohibited by this code or any regulation adopted pursuant to this code, subject, at a minimum, to all of the following:

(1) Activities conducted under EFP shall be consistent with policies set forth in Section 7050 and any applicable fishery management plan.

We cite: Abalone Recovery and Management Plan, Appendix H as our example of a Fishery Management Plan (FMP) for red abalone at San Miguel Island.

a) Applicant is requesting authorization to target:  
Resume red abalone commercial fishing at San Miguel Island only, August 1, 2024-December 31, 2024.

b) Mark devises:

Since 2005, the former abalone diver members of the California Abalone Association (CAA) have proposed to the California Fish and Game Commission (FGC) the use of a fixed tag to be used on all commercially caught abalone. These tags will include the divers name, permit number and any other relevant information. A fee of \$10. Per tag will be paid to DFW for the use of these tags. 15,000 tags at \$10. totals \$150,000. to DFW for monitoring a fishery.

c) Applicant is requesting:

To support the economic requirements of commercial fishing, we request that the abalone permit holders be allowed to produce "mixed loads" meaning they may fish sea urchin, crab or lobster--in season—along with their abalone catch.

#### C. Statement of Qualifications:

1. Lead and provide supervisory oversight for all activities of the permit under the authorization, standard terms, and special conditions. These divers are recognized, by statute, as being qualified for this job.

1. Experience to identification, methods, and protocols specific to the requested species:

Each of these divers have several decades of successful production of various species of abalone.

2. Obtain all appropriate authorizations and oversee quality control measures to assure conformance to the specified standards or requirements (e.g., take

appropriate measures to ensure, promote, and facilitate compliance):  
DFW Law Enforcement is a formidable deterrent.

4. Train all persons operating under the permit:  
Mentorship will be important to any future entrants to the fishery. This could also be used to educate recreational fishermen, reducing bar-cut problems for example.
3. Coordinate field activities and communicate findings with CDFW marine region:  
Agree.
4. Collect, analyze, and transmit biological data gathering under the EFP to CDFW marine region:  
Modern electronic devices: ROVs, Go-Pros, camera phones can enhance transmission of biological information.

D. Permit Application Type:

1. Tier 1

2. Request permit fee reduction option consideration:  
Yes.

1. Has pre-application consultation with CDFW taken place with respect to this proposal? (Required for Tier 2 EFP, Tier 4 EFP, or permit fee reduction option):  
No

E. Project Description:

Resume commercial red abalone fishing at San Miguel Island using only former commercial abalone divers.

1. A description of the experimental design and research plan, including specific procedures for data collection, storage, processing, and analysis; and a timeline for implementing the project, including, if applicable, when compensation fishing is expected to occur:  
Commercial fishing to resume at San Miguel Island. Divers will document the fishery using underwater Go-Pro cameras to document their dives and camera phones and/or I-Pads to relay biological and law enforcement data to DFW personnel.

\* Fishery/Biology:

Biological data will be provided by divers to DFW. Data which currently is nonexistent.

\* Logbooks:

The use of Log Books is standard practice and may be replaced by electronic devices and tools like I-Pads.

\* Samples detailed information about composition, quantities, sexes, reproductive status, size, weights of target species:

Divers will have access to an equal proportion of the Total Allowable Catch (TAC), as identified in ARMP Appendix H of 15,000 red abalone. A size limit of 7  $\frac{3}{4}$  inches is proposed. Season shall be August 1, 2024-December 31, 2024.

\* Tag Recapture Study:

Tag have not been used on commercial abalone yet. Suggested tags would be placed on abalone through holes in their shells and stay attached through ultimate sales of these shells.

\* Electronic Monitoring:

Go-Pro, I-Pad, camera phones as previously described.

**\*Biological Sampling:**

Phase 1—Dockside/Inshore configuration

Phase 2-Finalizing Individual Gear Configuration

Phase 3-Fishing

List of target Species:

1 Red abalone only.

1. A list of incidental catch:

Misc. barnacles, boring sponges, etc.

2. A description of mechanisms that will be utilized to ensure any proposed harvest limits for target and incidentally caught species are not exceeded:

NA

3. A description of any potential impacts on existing fisheries, habitats, or possible incidental interactions with threatened, endangered, or protected species (e.g. sea turtles, marine mammals, and birds) that could occur as a result of this project:

NA

4. The type and amount of gear to be used, including gear specifications and design, and, if applicable, a description of any measures and/or devices that will be used to reduce bycatch:

NA

5. The location and timing of the project. The description must include trip specifications, such as fishing depth, anticipated number of trips, expected trip duration, and estimated number ...per day.

\* San Miguel Island only.

\* Trip limits as required by DFW.

- \* Multi-day trips are standard practice.
- \* Bag limits may be imposed by DFW.

F. Project Vessels. Provide vessel information:

Available EFP examples suggest 10 agents (fishermen) and 5 boats. We find nowhere in the California Fisheries Innovation Act of 2018 any existing limitation on how many participants (agents) nor any limitation on boats. Active participants and boats to be determined.

- \* Vessel Name
- \* Boat Registration Number or Documentation
- \* Owner Name
- \* Owner telephone number
- \* Owner Address
- \* Operator Name
- \* Operator Address
- \* Operator phone number

Repeat, owners and operators:  
To be determined

G. Signatures:  
To be determined

H. Application Fee Payment:  
To be determined


List of former commercial abalone divers who had permits in 1996/97 season. This list created in January 2024 by phone calls, emails and personal communications.

(Prepared by: S. Rebuck. J. Baldwin, L. Marcus, J. Becker)

Name	Address	phone/email
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Apodaca, Austin		
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Askew, Robert		
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Baldwin, Jeffery		
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Becker, John		
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Becker, Mark		
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Bertelli, Robert		
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Betts, Jerome		
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Brooker, Craig		
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Brubaker, Mark		
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Canterbury, Steve

Charest, Pierre

Colgate, John

Conklin, Gary

Duncan, Robert

Gill, David

Grover, Doug

Harrington, Michael

Hastie, Bob

Hay, Bob

Herrin, Mark

Hooten, Bill



Kitahara, Mike

Kuphal, Steve

Liquornik, Harry

Marcus, Leonard

Marshall, James

McKinley, Bobby

Morgan, Ernie

Mulcahy, Tim

O'Brien, Jeremiah

Parkinson, Gaylord

Petterson, Cappy

Petterson, Curt

Ed Pierce

Price, Brian

Radon, Mike

Schmidt, Kenny

Shea, Bob

Shupe, Andy

Shupe, Bob

Shrout, Sam

Spur, David

Thompson, Don

Urquhart, Jim

S

Verhagen, Gary

Vogal, Harry

Voss, Chris

Woodcock, John

Zertuche, Raul

Zertuche, Ruben

Weakland, Paul

Attention David Thesell: This is the video shot in 2020. We have been attempting to update but the weather has yet to cooperate. We will keep trying. Video shot by Jeffery Baldwin.

Thank you, Steve Rebuck

----- Forwarded Message -----

**From:** Steve Rebuck <[REDACTED]>  
**Cc:** Steve Rebuck <[REDACTED]>; Leonard Marcus <[REDACTED]>; John Becker <[REDACTED]>; Mike and Susy Kitahara <[REDACTED]>  
**Sent:** Friday, March 29, 2024, 10:07:56 AM PDT  
**Subject:** San Miguel Island, Abalone YouTube - Jeff Baldwin

[San Miguel Island Abalone November 2020](#)



San Miguel Island Abalone November 2020



Tracking Number: ( 2023-10 )

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.**

**1. Person or organization requesting the change**

Name of primary contact person: Todd Bluechel

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

**2. Rulemaking Authority**

Sections 200, 205, 265, 713, 5510, 7121, 7701 and 7708, Fish and Game Code

**3. Overview - Summarize the proposed changes to regulations:**

On 8/25/23 I received a call from Jason Kraus (Captain, Marine Enforcement District – California Department of Fish and Wildlife). Jason informed me that it was suggested by several “above him”, within his department, that I petition to change/amend CCR T14 231(b). Jason shared with me section CCR T14 231(b) currently states: “*Any legally taken species of sport-caught fish may be possessed for filleting, smoking, or canning if the same fish is returned to the angler or if the fish is exchanged pound for pound ...*”

Please accept the following information in support of my official petition to change/amend section CCR T14 231(b) to allow sport fishermen to donate his/her sport-caught fish to a nonprofit(s). I am proposing verbiage within section CCR T14 231(b) be amended to, or analogous to, the following: “*Any legally taken species of sport-caught fish may be possessed for filleting, smoking, or canning if the same fish is returned to the angler, or if the fish is exchanged pound for pound or if the fish is donated by the angler to a nonprofit(s) instead of being returned to the angler.*”

**4. Rationale - Describe the problem and the reason for the proposed change:**

Currently, the “problem” is that section CCR T14 231(b) does not allow sport fishermen to donate the fish they legally catch to a nonprofit. Amending CCR T14 231(b) to allow sport fishermen to donate their catch to nonprofits has zero disadvantages and boundless benefits.



I don't know if those reading and ruling on this petition have ever been homeless, if they were ever a military veteran in need, if they ever lost everything for any one of numerous reasons and were just in need of a hot meal, but I can tell you the type of food most nonprofits can afford to serve is not what most would consider delicious or nutritious. While I am by no means suggesting nonprofits that feed those in need are serving food that is subpar, I don't think anyone would disagree that a fresh piece of tuna (Yellowfin / Yellowtail / Bluefin) would be a most welcome delicious and nutritious treat!

The times I've personally served F3G fish at nonprofits was incredibly fulfilling and it reminded me why I put "Feel Good" in the name of the charity. Sport fishermen "Fish," the nonprofits cook the fish and turn it into delicious and nutritious "Food," and all those involved get to "Feel Good" knowing we've helped our fellow Americans in need.

Amending section CCR T14 231(b) to allow sport fishermen to donate fish to nonprofits is the right thing to do. Allowing nonprofits to receive and serve the type of protein they have never been able to afford is what many have deemed a godsend.

Please amend section CCR T14 231(b) to allow sportfishermen to donate fish to nonprofits so you too can "Feel Good."

If you have any questions, or if I was not clear about anything, please call my cell or email me the questions you'd like clarified.

## **SECTION II: Optional Information**

Date of Petition: 8/28/23

5. **Category of Proposed Change**

Sport Fishing

6. **The proposal is to:**

Amend - CCR T14 231(b)

7. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition**

Not applicable.

8. **Effective date:**

9/1/23 or ASAP

9. **Supporting documentation:**

In 2010, I created and have governed since the 501c3 nonprofit: "Fish. Food. Feel Good." (F3G). I am very proud to say F3G has collected tens of thousands of pounds of sport caught pelagic fish from sport fishermen. F3G has donated these fish to numerous San Diego (SD) charities for over 13 years!



Summary of the F3G process: F3G collects sport caught pelagic fish for FREE, F3G distributes these fish to nonprofits for FREE, there is absolutely ZERO exchange of any money between the sport fishermen, F3G, and the nonprofits, there is no "purchasing" of fish from F3G.

Numerous politicians have shown, and continue to voice, their support for F3G including the previous Mayor Kevin Faulkner, the current Mayor Todd Gloria, numerous SD City Council Members and Congressmen. See attached pictures. Even famous people whom are notoriously silent as it pertains to "not" voicing their personal views have shown support including Robert Redford.

I feel it's important to briefly mention, Mayor Todd Gloria is particularly supportive of practices that promote Sustainability. About a year ago, the mayor hired Shelby Rust Buso as the new Chief Sustainability Officer. One area she is particularly interested in is local food-system programs. I will soon be introducing F3G to Ms. Buso and it is my hope I'll be able to share with her how F3G is feeding local, sustainably caught fish, to children in SD schools.

F3G enjoys a long and distinguished history. Part of that history includes excellent personal relationships with the leaders of some of California's largest and most influential nonprofits located in SD, all of whom have received fish from F3G including: Father Joes Village, SD Food Bank, SD Rescue Mission, Jewish Family Service of SD, Imperial Valley Food Bank, Project 1:1, Samoa Independent Church, PATH SD, Dreams for Change, Kitchens for Good, Urban Angels, Ronald McDonald House Charities of SD.

As evident from the press links below, F3G has never tried to hide what it does. In fact, F3G has received an unprecedented amount of vocal support from the hundreds of sport fishermen that call F3G every year. As America's only sustainable fishing charity, F3G has grown to be one of the most unique and well-loved sport fishing nonprofits in America partly because of all the grassroots support by fishing executives within the sport fishing industry as a whole.

F3G was given booths for free by the following event holders in support of F3G so that we could disseminate information, and spread the word: the SD Day at the Dock, International Yellowtail Derby, Fred Hall fishing show and ICAST. F3G's booth was often near Fish and Game booths. Numerous "officials" often stopped by and voiced support for what F3G is and for what we're doing.

Several radio talk shows, including: Rod and Reel Radio, Let's Talk Hook Up, KOGO, KPBS, ROCK 105.3, all interviewed me (Todd Bluechel) several times. A Facebook page and website were created in 2011.

Never once, after all the coverage within magazines, newspapers, TV, press, radio, conferences and internet exposure, about what F3G is, what F3G does and how F3G benefits thousands in need, has any official ever once voiced any concern about the lawfulness of F3G. F3G has received fish donations from NOAA and the CA Fish and Game Department. F3G's 501c3 status is in good standing with the CA State and Federal departments.

#### **FOX News**

- <https://rb.gy/yc2x3>

#### **Imperial Valley Press**

- <https://bit.ly/3syll7z>



**KPBS**

- <https://bit.ly/3NePGSb>

**SD Government – press release – Mayor Kevin Faulkner**

- <https://bit.ly/3SJw21H>

**SD Downtown News**

- <https://bit.ly/3zlhCOc>
- <https://bit.ly/3U7Uafz>

**BD Outdoors:**

- <https://bit.ly/3Dg3N4V>
- <https://bit.ly/3Nf0krY>

**SD Union Tribune**

- <https://bit.ly/3mla76K>

**Rancho Santa Fe Review**

- <https://bit.ly/3DfrVES>

**Ranch and Coast magazine**

- <https://bit.ly/3NcWX4C>

**Del Mar News**

- <https://bit.ly/3DBFP5B>

**Pace-TV interview**

- <https://bit.ly/3fd3TSR>

**Sport Fishing Magazine - NOAA**

- <https://bit.ly/3sDCUD0>
- <https://bit.ly/3fgCGPm>

**Indian Voice**

- <https://bit.ly/3DEdbAE>

**10. Economic or Fiscal Impacts:**

To the best of my knowledge, there would be no negative economic or fiscal impact(s) on the CA Department of Fish and Wildlife. But, allowing section CCR T14 231(b) to allow sport fishermen to donate their fish to nonprofits has numerous positive financial impact(s) for the nonprofits. It's no secret nonprofits are traditionally always underfunded and unable to do as much "good" as they would like in support of their individual mission statements. Approving my petition would allow nonprofits to continue the program they've been benefiting from for over 13 years, that allows them to receive and serve a healthy and nutritious source of protein to Americans in need. Approving my petition would allow nonprofits to do more with less. Approving my petition will allow thousands of fishermen to "Feel Good!" Approving my petition could eventually allow the entire CA Department of Fish and Wildlife to "Feel Good" if one day they themselves donate seized pelagics to F3G, ergo nonprofits!

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

Not applicable





**SECTION 3: FGC Staff Only**

Date received: 09/05/2023. |

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 \_\_\_\_\_ |
- Granted for consideration of regulation change

Tracking Number

# Memorandum

Date: May 15, 2024

Received 5/20/2024;  
Signed copy on file

To: Melissa Miller-Henson  
Executive Director  
Fish and Game Commission

From: Charlton H. Bonham  
Director

Subject: **Petition to allow for donation for sport-caught catch (Tracking Number: 2023-10)**

At their December 14, 2023 meeting, the California Fish and Game Commission (Commission) referred a petition for regulation change (2023-10) to the Department of Fish and Wildlife (Department) for review and recommendation. The petition submitted by Mr. Todd Bluechel (Applicant), requests to amend Section 231(b), Title 14, California Code of Regulations (CCR) to authorize exchanging of sport-caught fish. The proposed change would allow sport fishing license holders who exchange fish for processing to have those fish returned as a donation to a nonprofit group rather than directly to the angler as presently allowed.

Current law, in Section 7121, Fish and Game Code (FGC) prohibits selling or purchasing sport-caught fish and Section 75, FGC defines that "Sell" includes barter, exchange or trade. Section 7121 does not prohibit the donation of sport-caught fish to a nonprofit or other organization or individual.

Section 231(b), Title 14, CCR, allows for exchanging of sport-caught fish with a valid Sport-Caught Fish Exchange permit for the purpose of filleting, smoking or canning if the same fish is returned to the angler. Subsection (c)(4), however, requires the donation of yellowtail not returned to the angler to "...a non-profit charitable institution for food purposes only and may be fresh or processed."

Historically, the provisions in Section 231(b) were primarily used to exchange fresh-caught tuna species for cans. This allowed recreational anglers to retain fish for later consumption, even if they did not have adequate freezer storage. The Applicant has demonstrated a desire and ability to provide fresh-caught fish to local nonprofit groups for consumption by individuals in need. Section 231(b) does not include a provision to allow nonprofit groups to pick up fish directly from a processing facility. Rather, the existing regulations require the individual who caught the fish to receive the processed fish. The proposed change would allow the individual who caught the fish to release it for processing and a nonprofit group to then receive the processed fish.

Melissa Miller-Henson, Executive Director  
Fish and Game Commission  
May 15, 2024  
Page 2

Section 231(c) includes a provision allowing processors to sell sport caught fish to commercial canneries in exchange for commercially harvested canned tuna. The provision historically provided an immediate ability to exchange sport-caught tuna for canned tuna, effectively placing the sport-caught tuna into the commercial market through the exchanges. This allowance is no longer in practice by the industry and processors instead fillet, smoke, and/or can the actual fish the angler exchanges, returning the cans to the angler after processing.

The Department recommends the Applicant's petition be granted and that a rulemaking be considered to allow the fish that have been released to an individual with a Sport-Caught Fish Exchange permit to be delivered directly to a nonprofit group. In addition, the Department recommends that outdated provisions within Section 231 (c), Title 14 CCR, be modified to eliminate the potential for sport-caught fish to be commercialized.

If you have any questions regarding this item, please contact Dr. Craig Shuman, Marine Regional Manager at (805) 568-1246 or by email at [r7regionalmgr@wildlife.ca.gov](mailto:r7regionalmgr@wildlife.ca.gov).

ec: California Department of Fish and Wildlife

Chad Dibble, Deputy Director  
Wildlife and Fisheries Division

Craig Shuman, D. Env., Regional Manager  
Marine Region

Eric Kord, Assistant Chief  
Law Enforcement Division

John Ugoretz, Environmental Program Manager  
Marine Region

Cooper Wilce, Attorney  
Office of General Counsel

From: Sandra Kearney [REDACTED]  
Sent: Monday, June 3, 2024 8:50 PM  
To: FGC <FGC@fgc.ca.gov>  
Subject: Petition 2023-30MPA

Ms Miller-Henson,

I am writing in support of the SMCA revision requested in Petition 2023-30MPA (exhibitB18), submitted by biologist Robert Jamgocian.

Living near and recreating in and on Big River on a daily basis for the past 40 years, I have witnessed the increase in crab take along the river and believe the restrictions laid out in the noted petition will help in the sustainability of this very important component of the ecology of the river.

Thank you for your care and consideration,

Sandra Kearney  
[REDACTED]

**From:** Sean Michael Oshiro [REDACTED]  
**Sent:** Saturday, April 20, 2024 7:05 PM  
**To:** FGC <FGC@fgc.ca.gov>  
**Subject:** propose MPA's

My name is Sean-Micael Oshiro, and I'm from southern California. I'm here to express my concerns about Petition 2023-2033, particularly regarding the proposed new state marine reserves in San Diego.

The ocean holds a special place in my heart. Growing up near its shores, I witnessed its beauty and experienced its healing power firsthand. Whether I found solace in the rhythmic crashing of waves or marveled at the diverse marine life beneath the surface, the ocean has always been a source of inspiration and tranquility for me.

However, I fear that the proposed marine reserves may disrupt the delicate balance of aquatic ecosystems in our area. While conservation efforts are vital, we must ensure they are implemented by thoughtful and considerate local communities who not only appreciate the ocean's beauty but also rely on it for their livelihoods.

Spearfishing has been more than just a hobby for me; it's been a gateway to some of the most meaningful connections in my life. Amidst the ocean's tranquil depths, I found the thrill of the hunt and unexpected companionship. One day, while exploring a reef, I encountered another spearfisher, sharing stories of our underwater adventures. As our friendship blossomed over shared passions and mutual respect for the ocean, it became evident that we had found more than just a diving buddy; we had discovered kindred spirits. I found my best friend through spearfishing, forging a bond as deep and enduring as the ocean.

Please consider the impact of Petition 2023-2033 on our coastal communities and the precious marine ecosystems they depend on. Let's work together to find sustainable solutions that protect our environment and way of life.

Thank you for your attention to this matter.