

## STAFF SUMMARY FOR JUNE 24-25, 2020

**33B. RULEMAKING TIMETABLE UPDATES****Today's Item**Information Action 

Review and potentially approve changes to the perpetual timetable for anticipated regulatory actions.

**Summary of Previous/Future Actions**

- FGC approved changes to rulemaking timetable Apr 15-16, 2020; Teleconference
- **Today consider approving the rulemaking timetable Jun 24-25, 2020; Webinar/teleconference**

**Background**

This is a standing agenda item for FGC staff and DFW to request changes to the FGC regulatory timetable, or for FGC to make changes during the course of this meeting.

In light of FGC and DFW regulatory staff capacity challenges associated with COVID-19, FGC staff consulted with DFW leadership to prioritize the rulemaking schedule. As a result, staff proposes that notice for two rulemakings that will be a significant effort be delayed to a later date to be determined (TBD), when staff capacity can be restored:

- commercial kelp and algae harvest management currently scheduled for notice in Aug 2020 (move to TBD), and
- Experimental Fishing Permit Program Phase 2 (keep it on TBD for now, rather than moving it onto the rulemaking schedule as discussed at the Mar 17, 2020 MRC meeting).

DFW concurs with both requests, noting that program staff may be able to continue progress on stakeholder outreach and developing materials until there is sufficient regulatory staff capacity to initiate the rulemaking process.

DFW also requests three changes to the timetable, based on rationale provided in Exhibit 1.

- Groundfish: Add a rulemaking to align state recreational and commercial fishing regulations for groundfish and associated species with federal regulations to be selected by Pacific Fishery Management Council in Jun 2020, with notice by memo in Jun 2020, discussion in Aug, and adoption in Oct.
- Red abalone: Add a rulemaking to extend or remove the recreational fishery closure sunset date, currently set to expire on Apr 1, 2021, with notice in Aug, discussion in Oct and adoption in Dec.
- Purple sea urchin (PSU): Schedule a 90-day extension of the PSU emergency regulation authorizing recreational divers to cull PSU underwater at Caspar Cove in Mendocino County.

Exhibit 2 is the latest timetable with proposed changes in bolded blue font.

STAFF SUMMARY FOR JUNE 24-25, 2020

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

**Recommendation**

**FGC staff:** Adopt proposed changes to the timetable for anticipated regulatory actions (Exhibit 2), including any rulemaking changes identified during the meeting.

**Exhibits**

1. [DFW memo](#), received Jun 16, 2020
2. [Perpetual Timetable for Anticipated Regulatory Actions](#), dated Jun 11, 2020

**Motion/Direction**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission approves the proposed changes to the rulemaking timetable as discussed today.

# Memorandum

**Date:** June 10, 2020

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

**From:** Charlton H. Bonham  
Director

**Subject:** **Request for Changes to the Fish and Game Commission's Timetable for Anticipated Regulatory Actions**

The Department of Fish and Wildlife (Department) requests the following schedule changes to the Fish and Game Commission's (Commission's) 2020 regulatory timetable:

- Add a rulemaking to amend sections 27.30, 27.35, 27.40, 27.45, 27.50, 28.27, 28.28, 28.54, 28.55, and 150.16, Title 14, CCR, for state recreational and commercial fishing regulations for groundfish and associated species. In June 2020, the Pacific Fishery Management Council will conclude a biennial review of the status of west coast groundfish populations, and will recommend groundfish fishery harvest limits and regulations. It is important to have consistent State and federal regulations establishing harvest limits, season dates, depth constraints and other management measures, and is also important that State and federal regulations be effective concurrently. This rulemaking proposes to make State regulations consistent with PFMC recommendations and thus federal regulations for groundfish and associated species.
  - The proposed schedule is notice by memo at the June 2020 meeting, discussion at the August 2020 meeting, and adoption at the October 2020 meeting.
- Add a rulemaking to amend section 29.15, Title 14, CCR regarding recreational take of red abalone. A moratorium has been placed on the recreational take of red abalone since December of 2017 in response to adverse ocean conditions and significant population decline. The moratorium is currently set to expire on April 1, 2021. However, ocean conditions and stock status for the species have remained very poor. As such the sunset date on the moratorium should be removed so that the harvest of red abalone would not commence before the stock is ready. The proposed timeline is notice at the August meeting, discussion at the October meeting, and adoption at the December meeting.
- Extend the emergency regulation in section 29.06, Title 14, CCR for 90 days. The emergency regulation removes the bag limit and authorizes recreational divers to

Melissa Miller-Henson, Executive Director  
Fish and Game Commission  
June 10, 2020  
Page 2

cull PSU underwater within the area commonly referred to as Caspar Cove, Mendocino County (located seaward of Caspar Headlands State Beach, along Point Cabrillo Drive), provided that such removal is done using hands or manual handheld tools. The extension is necessary to determine if this activity can help promote the recovery of kelp and the numerous species and ecosystem services that kelp supports, including red urchin and red abalone.

- Delay the rulemaking to amend sections 165 Harvesting of Kelp and Other Aquatic Plants, 165.5 Lease of Kelp Beds for Exclusive Harvest of *Macrocystis* and *Nereocystis*, and 705 Commercial Fishing Applications, Permits, Tags and Fees, currently scheduled for notice at the August meeting, discussion at the October meeting, and adoption at the December meeting. In discussion with FGC staff, we support the recommendation to postpone the Kelp/Algae rulemaking to a later date.

If you have any questions or need additional information, please contact Regulations Unit Manager, Michelle Selmon at (916) 653-4674 or by email at [Michelle.Selmon@wildlife.ca.gov](mailto:Michelle.Selmon@wildlife.ca.gov).

cc: Stafford Lehr, Deputy Director  
Wildlife and Fisheries Division  
[Stafford.Lehr@wildlife.ca.gov](mailto:Stafford.Lehr@wildlife.ca.gov)

David Bess, Chief  
Law Enforcement Division  
[David.Bess@wildlife.ca.gov](mailto:David.Bess@wildlife.ca.gov)

Craig Shuman, D. Env., Manager  
Marine Region  
[Craig.Shuman@wildlife.ca.gov](mailto:Craig.Shuman@wildlife.ca.gov)

Michelle Selmon, Program Manager  
Regulations Unit  
Wildlife and Fisheries Division  
[Michelle.Selmon@wildlife.ca.gov](mailto:Michelle.Selmon@wildlife.ca.gov)

**Fish and Game Commission:**

David Thesell, Program Manager  
Fish and Game Commission  
[David.Thesell@fgc.ca.gov](mailto:David.Thesell@fgc.ca.gov)

# California Fish and Game Commission: Perpetual Timetable for Anticipated Regulatory Actions

Updated June 11, 2020

Items proposed for change are shown in blue underlined font

Regulatory Change Category	Title 14 Section(s)	FGC Santa Ana Jun 24, 2020	FGC Santa Ana Jun 25, 2020	MRC San Clemente Jul 29, 2020	TC Fortuna Aug 18, 2020	FGC Fortuna Aug 19, 2020	FGC Fortuna Aug 20, 2020	WRC Sacramento Sep 17, 2020	FGC Oakland Oct 14, 2020	FGC Oakland Oct 15, 2020	TC Monterey Area Nov 9, 2020	MRC Monterey Area Nov 10, 2020	FGC San Diego Dec 9, 2020	FGC San Diego Dec 10, 2020	WRC TBD Jan 2021	TC TBD Jan 2021	FGC TBD Feb 2021	FGC TBD Feb 2021	MRC TBD Mar 2021	FGC TBD Apr 2021	FGC TBD Apr 2021	FGC TBD May 2021	WRC TBD May 2021
Upper Klamath-Trinity spring Chinook salmon sport fishing emergency regulations (2nd 90-day extension)	7.50(b)(91.2)	<b>EE 6/23</b>																					
Upper Klamath-Trinity spring Chinook salmon sport fishing (certificate of compliance)	7.50(b)(91.2)	E 6/22																					
Public use of Department of Fish and Wildlife lands <sup>1</sup>	550, 550.5, 551, 552, 630, 702			E 7/1																			
Mammal Hunting	360, 361, 362, 363, 364, 364.1			E 7/1									N				D				A		
Waterfowl (Annual)	502, 507			E 7/1									N				D				A		
Central Valley Sport Fishing (Annual)	2.35, 7.00, 7.50(b)(5), (8), (124), (155.5)			E 7/16									N				D				A		
Klamath River Basin Sport Fishing (Annual) <sup>2</sup>	5.87(f), 7.50(b)(91.1)				E 8/15								N				D				A		
Purple Sea Urchin emergency regulations (180 days)	29.06							<b>EE 9/16</b>															
<u>Purple Sea Urchin emergency regulations (90 days ext.)</u>	<u>29.06</u>							<b>EM 90 Day X</b>						<b>EE 12/XX</b>									
Commercial Pacific Herring Eggs on Kelp (Fishery Management Plan Implementation)	163, 164	D/A							E 10/1														
<u>Groundfish</u>	<u>27.30, 27.35, 27.40, 27.45, 27.50, 28.27, 28.28, 28.51, 28.55, 150.15</u>	N				D			A						E 1/1								
Recreational Dungeness Crab Marine Life Protection Measures	29.80, 29.85 701	N				D			A						E 1/1								
<u>Commercial Kelp and Algae Harvest Management</u>	<u>165, 165.5, 705</u>						N		D/A						E 4/4								
Simplification of Statewide Inland Fishing Regulations <sup>3</sup>	5.00, 7.00, 7.50, 8.10		N				D			A													
<u>Recreational Take of Red Abalone</u>	<u>29.15</u>					N			D														

Rulemaking Schedule to be Determined	Title 14 Section(s)	FGC Santa Ana Jun 24, 2020	FGC Santa Ana Jun 25, 2020	MRC San Clemente Jul 29, 2020	TC Fortuna Aug 18, 2020	FGC Fortuna Aug 19, 2020	FGC Fortuna Aug 20, 2020	WRC Sacramento Sep 17, 2020	FGC Oakland Oct 14, 2020	FGC Oakland Oct 15, 2020	TC Monterey Area Nov 9, 2020	MRC Monterey Area Nov 10, 2020	FGC San Diego Dec 9, 2020	FGC San Diego Dec 10, 2020	WRC TBD Jan 2021	TC TBD Jan 2021	FGC TBD Feb 2021	FGC TBD Feb 2021	MRC TBD Mar 2021	FGC TBD Apr 2021	FGC TBD Apr 2021	FGC TBD May 2021	WRC TBD May 2021
<u>Commercial Kelp and Algae Harvest Management</u>	<u>165, 165.5, 705</u>																						
Santa Cruz Harbor Salmon Fishing (FGC Petition #2016-018)	TBD																						
European Green Crab (FGC Petition #2017-006)	TBD																						
Wildlife Areas/Public Lands <sup>4</sup>	TBD																						
Experimental Fishing Permit (EFP) Program (Phase II)	TBD																						
Possess Game / Process Into Food	TBD																						
American Zoological Association / Zoo and Aquarium Association	671.1																						
Night Hunting in Gray Wolf Range (FGC Petition #2015-010)	474																						
Shellfish Aquaculture Best Management Practices	TBD																						
Ban of Neonicotinoid Pesticides on Department Lands (FGC Petition #2017-009)	TBD																						
Commercial Pink Shrimp Trawl	120, 120.1, 120.2																						
Ridgeback Prawn Incidental Take Allowance	120(e)																						

**KEY**  
 FGC = California Fish and Game Commission    MRC = FGC Marine Resources Committee    WRC = FGC Wildlife Resources Committee    TC = FGC Tribal Committee  
 EM = Emergency    EE = Emergency Expires    E = Anticipated Effective Date (RED "X" = expedited OAL review)  
 N = Notice Hearing    D = Discussion Hearing    A = Adoption Hearing  
 V = Vetting    R = Committee Recommendation