

STAFF SUMMARY FOR JUNE 16-17, 2021

27A. ADMINISTRATIVE ITEMS – 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 rulemaking timetable Apr 14, 2021; Webinar/Teleconference
- **Today consider approving changes to rulemaking timetable Jun 16-17, 2021; Webinar/Teleconference**

Background

This is a standing agenda item for FGC staff and DFW to request changes to the FGC rulemaking timetable, confirm changes made by FGC during the course of this meeting, and highlight changes made by FGC staff.

DFW requests three changes to the regulatory timetable (Exhibit 1):

- Delay the Experimental Fishing Permit (EFP) Program Phase II rulemaking. DFW proposes notice at the Aug 2021 meeting, discussion at the Oct 2021 meeting, and adoption at the Dec 2021 meeting. The delay of this rulemaking is necessary to allow time to incorporate recently-identified changes that will improve the regulatory package.
- Schedule two, consecutive, 90-day readoptions of emergency regulations in sections 29.20 and 29.80 related to recreational clam, sand crab, and shrimp gear for Oct 2021 and Feb 2022, respectively. In Apr, FGC added the emergency regulation extensions to the timetable under "TBD", until staff could determine an appropriate schedule. The recommended schedule for emergency regulation extensions will keep the gear prohibition in place while a standard rulemaking is promulgated.
- Delay the standard rulemaking (certificate of compliance) to amend sections 29.20 and 29.80 related to recreational clam, sand crab and shrimp gear. DFW proposes notice at the Dec 2021 meeting, discussion at the Feb 2022 meeting, and adoption at the Apr 2022 meeting. The delay is necessary to allow time to collect additional data to better inform proposed regulation changes.

FGC staff recommends one change to the regulatory timetable (Exhibit 2):

- Delay the notice hearing for the annual Central Valley sport fishing and Klamath River Basin sport fishing rulemakings to the Feb 2022 FGC meeting; the committee vetting, and discussion and adoption hearings will be the same as prior years (Sep 2021 WRC, Apr 2022 FGC, and May 2022 FGC, respectively). A delay from the traditional notice hearing in Dec of each year is possible as a result of moving the salmon teleconference adoption hearing to May and will allow more time to evaluate 2021 fishery data and alternatives resulting from the Sep 2021 WRC meeting discussions.

STAFF SUMMARY FOR JUNE 16-17, 2021

- Retain the correct emergency expiration (EE) date for Western Joshua Tree Renewable Energy 2084 emergency regulation with the Governor's executive order (8/27/21), and remove incorrect date and text for EE without the Governor's executive order.

FGC staff changed the Jul 2021 MRC date consistent with FGC approval in Apr 2021, removed what is now the incorrect emergency expiration date for the Western Joshua Tree Renewable Energy 2084 regulation, and corrected a spelling error.

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

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

Exhibits

1. [DFW Memo, received Jun 2, 2021](#)
2. [Perpetual Timetable for Anticipated Regulatory Actions, dated Jun 8, 2021](#)

Motion

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

Memorandum

Date: June 2, 2021

Received June 2, 2021
Original signed copy on file

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) 2021 regulatory timetable:

- Postpone the Experimental Fishing Permit (EFP) Program Phase II rulemaking to add Section 91, and amend sections 90, 120.1, 149, 180 and 704; and repeal section 149.3, Title 14, California Code of Regulations (CCR), to reflect changes to the Fish and Game Code (FGC) pertaining to experimental fishing activity. The delay of this rulemaking is necessary to incorporate recently identified changes that will improve the regulatory package.
 - The new proposed meeting schedule is notice at the August 2021 meeting, discussion at the October 2021 meeting, and adoption at the December 2021 meeting.
- Request the readoption of the emergency regulations for Recreational Clam, Sand Crab, and Shrimp Gear in Sections 29.20 and 29.80, Title 14, CCR for 180 days. The emergency regulation amended subsections 29.20(c) and (d), Title 14, CCR to limit the gear permitted to be used to harvest clams to hand operated spades, shovels, hoes, forks, rakes, slurp guns, clam guns, and rigid clam tubes, and specifically prohibit the use of hydraulic hand pumps. Subsection 29.20(c) was revised to include gear restriction language for the hydraulic pump, as well as language that states that it is unlawful to possess a hydraulic pump or use any method that can liquefy sand in any area where clams may be taken. The extension is necessary to keep the prohibition in place while a standard rulemaking is promulgated.
- Postpone the Recreational Clam, Sand Crab and Shrimp Gear standard rulemaking (Certificate of Compliance). This regulatory proposal will amend in sections 29.20 and 29.80, Title 14, CCR regarding Recreational Clam, Sand Crab,

Melissa Miller-Henson, Executive Director
Fish and Game Commission
June 2, 2021
Page 2

and Shrimp Gear. The delay of this rulemaking is necessary to allow time for the Department to collect additional data during the early summer season to incorporate into the Certificate of Compliance rulemaking.

- The proposed meeting schedule is notice at the December 2021 meeting, discussion at the February 2022 meeting, and adoption at the April 2022 meeting.

If you have any questions or need additional information, please contact Regulations Unit Manager, Michelle Selmon at (916) 704-3215 or by email at Michelle.Selmon@wildlife.ca.gov.

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

Updated June 8, 2021

Items proposed for change are shown in blue underlined or strikeout font

Regulatory Change Category	Title 14 Section(s)	FGC Webinar/teleconference Jun 16, 2021	FGC Webinar/teleconference Jun 17, 2021	MRC Webinar/teleconference Jul 2021	TC Webinar/teleconference Aug 17, 2021	FGC Webinar/teleconference Aug 18, 2021	FGC Webinar/teleconference Aug 19, 2021	WRC Webinar/teleconference Sep 16, 2021	FGC Webinar/teleconference Oct 13, 2021	FGC Webinar/teleconference Oct 14, 2021	MRC Webinar/teleconference Nov 9, 2021	TC Webinar/teleconference Dec 14, 2021	FGC Webinar/teleconference Dec 15, 2021	FGC Webinar/teleconference Dec 16, 2021	WRC Jan 2022 TBD	FGC Feb 2022 TBD	FGC Feb 2022 TBD	MRC Mar 2022 TBD	TC Apr 2022 TBD	FGC Apr 2022 TBD	FGC Apr 2022 TBD	FGC May 2022 TBD	WRC May 2022 TBD	
Recreational Clam, Sand Crab, and Shrimp Gear Emergency ⁶	29.20, 29.80														EE 1/8									
<u>Recreational Clam, San Crab, and Shrimp Gear Emergency (First 90-day Extension)</u> ⁶	<u>29.20, 29.80</u>									A					E 1/1						EE 4/1			
<u>Recreational Clam, Sand Crab, and Shrimp Gear Emergency (Second 90-day Extension)</u> ⁶	<u>29.20, 29.80</u>																A				E 4/1			
Recreational Clam, Sand Crab, and Shrimp Gear (Implementing Certificate of Compliance) ⁶	29.20, 29.80						N			D				AN	E+4	D					A			
Central Valley Sport Fishing (Annual)	7.40(b)(4), (43), (66), (80)			E 7/16				V					N				N					D	A	
Klamath River Basin Sport Fishing (Annual)	7.40(b)(50)				E 8/15			V					N				N					D	A	
Waterfowl (Annual)	502			E 7/1									N											
Western Joshua Tree Renewable Energy 2084 EM	749.10	8/21 without Governor's Executive Order								EE 8/27/21 with Governor's Executive Order														
Western Joshua Tree Renewable Energy 2084 EM Extension ¹	749.10							EM 8/27/21																EE 11/24/21
Western Joshua Tree Renewable Energy 2084 EM Extension ²	749.10								EM 11/24/21															
Western Joshua Tree Dead Hazard Trees 2084	749.11																							EE 11/9/21
Western Joshua Tree Local Government 2084	749.12																							EE 11/9/21
Recreational Crab Marine Life Protection Measures	29.80, 29.85, 701																							E 11/1
Experimental Fishing Permit (EFP) Program Phase II	90, 91, 120.1, 149, 149.3, 180, 704		N																					E 4/1

Rulemaking Schedule to be Determined	Title 14 Section(s)	FGC Webinar/teleconference Jun 16, 2021	FGC Webinar/teleconference Jun 17, 2021	MRC Webinar/teleconference Jul 20 21, 2021	TC Webinar/teleconference Aug 17, 2021	FGC Webinar/teleconference Aug 18, 2021	FGC Webinar/teleconference Aug 19, 2021	WRC Webinar/teleconference Sep 16, 2021	FGC Webinar/teleconference Oct 13, 2021	FGC Webinar/teleconference Oct 14, 2021	MRC Webinar/teleconference Nov 9, 2021	TC Webinar/teleconference Dec 14, 2021	FGC Webinar/teleconference Dec 15, 2021	FGC Webinar/teleconference Dec 16, 2021	WRC Jan 2022 TBD	FGC Feb 2022 TBD	FGC Feb 2022 TBD	MRC Mar 2022 TBD	TC Apr 2022 TBD	FGC Apr 2022 TBD	FGC Apr 2022 TBD	FGC May 2022 TBD	WRC May 2022 TBD	
<u>Recreational Clam, Sand Crab, and Shrimp Gear Emergency (First 90-day Extension)</u> ⁶	<u>29.20, 29.80</u>																							
<u>Recreational Clam, Sand Crab, and Shrimp Gear Emergency (Second 90-day Extension)</u> ⁶	<u>29.20, 29.80</u>																							
Pre-Existing Structures in Marine Protected Areas (MPAs), Marine Managed Areas (MMAs), and Special Closures	632																							
CA Green <u>Grunion</u> (FGC Petition #2019-014)	TBD																							
Commercial Kelp and Algae Harvest Management	165, 165.5, 705																							
Santa Cruz Harbor Salmon Fishing (FGC Petition #2016-018)	TBD																							
European Green Crab (FGC Petition #2017-006)	TBD																							
Wildlife Areas/Public Lands ⁴	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 #2017-008)	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

3 = Includes FGC Petition #2018-008 4 = Includes FGC Petition #2018-003 5 = Includes FGC Petition #2020-001 6 = Includes FGC Petition #2019-012