

STAFF SUMMARY FOR AUGUST 17, 2022

14B. 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 Jun 15-16, 2022; Los Angeles/Trinidad
- **Today consider approving changes to the rulemaking timetable Aug 17, 2022; Loleta**

Background

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

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

1. Update the list of affected Title 14 sections for the “Recreational Fishing Regulations for Federal Groundfish and Associated Species” rulemaking (also referred to as the biennial groundfish rulemaking) to include sections 1.91, 28.65 and 28.90. The proposed additions are necessary to remain consistent with management guidance from the Pacific Fishery Management Council for regulation changes and other provisions established jointly by state and federal authorities.
2. Adjust the timing of the “Pre-Existing Structures in Marine Protected Areas (MPAs), Marine Managed Areas (MMAs), and Special Closures” rulemaking, amending Section 632, from notice at the Oct 2022 FGC meeting, discussion in Dec 2022, and adoption in Feb 2023, to notice in Apr 2023, discussion in Jun 2023, and adoption in Oct 2023. This adjustment is necessary because of a delay in developing the rulemaking’s environmental review document under the California Environmental Quality Act CEQA; the proposed new timeline is expected to realign the two processes.
3. Add a “Commercial and Recreational Take of California Spiny Lobster” rulemaking to amend sections 29.80, 29.90, 29.91, 121, 122.1 and 122.2 to adjust hoop net requirements for take of crustaceans (affecting both crab and spiny lobster), and to update and improve spiny lobster regulations and management of the recreational and commercial fishery sectors. The proposed schedule is notice at the Dec 2022 meeting, discussion in Feb 2023, and adoption in Apr 2023.

FGC staff recommends two changes to the regulatory timetable.

1. For both the “Central Valley Sport Fishing (Annual)” and “Klamath River Basin Sport Fishing (Annual)” rulemakings, add a notice at the Feb 2023 meeting, discussion in Apr 2023, and adoption in May 2023. These rulemakings are annual regulatory change

STAFF SUMMARY FOR AUGUST 17, 2022

packages promulgated by FGC to maintain consistency with federal regulations and fishery management goals.

2. For the “Waterfowl (Annual)” rulemaking, add a notice at the Dec 2022 meeting, discussion in Feb 2023, and adoption in Apr 2023. This is an annual regulatory change package promulgated by FGC to maintain consistency with federal frameworks for waterfowl hunting regulations.

Additionally, corrections to effective dates and expiration dates for several rulemakings have been made based on new information on the status of the rulemakings. Also, for the “Harvesting of Kelp and Other Aquatic Plants, Commercial Marine Algae Management Policies” rulemaking, staff added a disclaimer indicating withdrawal from OAL and re-submittal to read: “*This file was withdrawn from the Office of Administrative Law on 6/1 and resubmitted on 8/4. An effective date of 9/1 was requested.*”

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

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

Exhibits

1. [DFW memo, received Aug 5, 2022](#)
2. [“Perpetual Timetable for Anticipated Regulatory Action,” dated Aug 9, 2022](#)

Motion

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

Memorandum

Date: August 2, 2022

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

From: Charlton H. Bonham
Director

Subject: **August 2022 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 changes to the Fish and Game Commission's (Commission's) 2022 regulatory timetable:

1. Add the following new sections to the Recreational Fishing Regulations for Federal Groundfish and Associated Species rulemaking: 1.91, 28.65, and 28.90. Changes are being made to these additional sections to remain consistent with management guidance from the Pacific Fishery Management Council (PFMC) and federal regulations concerning groundfish species that are jointly managed by state and federal authorities.
2. Adjust the rulemaking schedule for the Pre-Existing Structures in Marine Protected Areas (MPAs) which amends Section 632. The adjustment of the timeline is necessary because of a delay in development of the rulemaking's CEQA document, which now requires the rulemaking to be moved back to realign the two processes.
 - The proposed meeting schedule is notice at the April 2023 meeting, discussion at the June 2023 meeting and adoption at the October 2023 meeting, provided the environmental document remains on schedule of being completed by October 2023.
3. Add rulemaking to amend subsection 29.80, 29.90, 29.91, 121, 122.1, and 122.2 of Title 14, CCR comprising of recreational hoop net requirements for take of crustaceans (affecting gear used for both crab and spiny lobster) and several updates to the spiny lobster recreational and commercial sectors to improve the management of the fishery.
 - The proposed meeting schedule is notice at the December 2022 meeting, discussion at the February 2023 meeting, and adoption at the April 2023 meeting.

If you have any questions or need additional information, please contact the Acting Regulations Unit Manager, Brian Owens at Brian.Owens@wildlife.ca.gov.

Melissa Miller-Henson, Executive Director
Fish and Game Commission
August 2, 2022
Page 2

cc: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

David Bess, Chief
Law Enforcement Division

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

Brian Owens, Acting Program Manager
Regulations Unit

Fish and Game Commission:

David Thesell, Program Manager
Fish and Game Commission

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

August 9, 2022

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

Regulatory Change Category	Title 14 Section(s)	MRC Santa Rosa July 14, 2022	TC Lola August 16, 2022	FGC Lola August 17, 2022	WRC Los Angeles / Inland Empire Area September 15, 2022	FGC Kings Beach October 12, 2022	FGC Kings Beach October 13, 2022	FGC Teleconference TBD November, 2022	MRC San Diego Area November 17, 2022	TC San Diego Area December 13, 2022	FGC San Diego Area Dec 14, 2022	FGC San Diego Area Dec 15, 2022	WRC TBD January 2023	FGC TBD 1 February 2023	FGC TBD 2 February 2023	MRC TBD March 2023	TC TBD April 2023	FGC TBD 1 April 2023	FGC TBD 2 April 2023	FGC Teleconference May 2023	WRC TBD May 2023	FGC TBD 1 June 2023	FGC TBD 2 June 2023	MRC TBD July 2023
Recreational Clam, Sand Crab, and Shrimp Gear Emergency (Second 90-day Extension) ⁶	29.20, 29.80	EE 7/11																						
Recreational Clam, Sand Crab, and Shrimp Gear (Implementing Certificate of Compliance) ⁶	29.05, 29.20, 29.80	E 7/11																						
Central Valley Sport Fishing (Annual)	7.40(b)(4), (43), (66), (80)		E 7/16											N				D		A				
Klamath River Basin Sport Fishing (Annual)	7.40(b)(50)		E 8/15											N				D		A				
Waterfowl (Annual)	502	E 7/1									N			D				A						
Pink Shrimp Fishery Management Plan Implementing Regulations	56.00, 56.01, 120, 120.1, 705					E-404		E 11/1																
Harvesting of Kelp and Other Aquatic Plants, Commercial Marine Algae Management Policies	165, 165.5, 705.1	E 7/1			This file was withdrawn from the Office of Administrative Law on 6/1 and resubmitted on 8/4. An effective date of 9/1 was requested																			
Low Flow Fishing Restrictions Due to Drought Conditions Emergency	7.40(b)(40)(A)1., 8.00(a), 8.00(b)		EE 8/2																					
Low Flow Fishing Restrictions Due to Drought Conditions Emergency (90-day Extension)	7.40(b)(40)(A)1., 8.00(a), 8.00(b)		E-402 E 8/1					EE-4034-EE 11/1																
Game Fish Contests	230			EUF																				
Sport Fishing Regulation Updates	2.00, 2.25, 2.30, 5.00, 5.15, 5.20, 5.41, 5.75, 5.79, 5.85, 5.87, 5.88, 7.00, 7.40, 7.50, 8.00, 29.85			A									E 1/1											
Recreational Fishing Regulations for Federal Groundfish and Associated Species	1.91, 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 28.26, 28.27, 28.28, 28.29, 28.47, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65, 28.90					D		A					E 1/1											
Clarification of Allowed and Prohibited Uses for State Marine Recreational Management Areas (SMRMAs)	632(b)(9), (b)(37), (b)(41), (b)(42), (b)(91)			EUF																				
Recreational Sub-Bag Limits for Vermilion, Copper and Quillback Rockfishes Emergency	28.55	EE 7/6																						
Recreational Sub-Bag Limits for Vermilion, Copper and Quillback Rockfishes Emergency (First 90-Day Extension)	28.55	E 7/6			EE-404 EE 10/5																			
Recreational Sub-Bag Limits for Vermilion, Copper and Quillback Rockfishes Emergency (Second 90-Day Extension)	28.55			A	E-404 E 10/5																			
Pre-Existing Structures in Marine Protected Areas (MPAs), Marine Managed Areas (MMAs), and Special Closures	632					N					D				A				N				D	
Implementation of AB 817 365-day/ Electronic Display	TBD						N				D			A									E 7/1	
Commercial and Recreational Take of California Spiny Lobster	29.80, 29.90, 29.91, 121, 122.1, 122.2										N				D				A					
Southern California Steelhead 2084 Emergency	749.13							EE 11/15																
Southern California Steelhead 2084 Emergency (90-day extension)	749.13						A	E 11/15						EE 2/13										

Rulemaking Schedule to be Determined	Title 14 Section(s)	MRC Santa Rosa July 14, 2022	TC Lola August 16, 2022	FGC Lola August 17, 2022	WRC Los Angeles / Inland Empire Area September 15, 2022	FGC Kings Beach October 12, 2022	FGC Kings Beach October 13, 2022	FGC Teleconference TBD November 2022	MRC San Diego Area November 17, 2022	TC San Diego Area December 13, 2022	FGC San Diego Area Dec 14, 2022	FGC San Diego Area Dec 15, 2022	WRC TBD January 2023	FGC TBD 1 February 2023	FGC TBD 2 February 2023	MRC TBD March 2023	TC TBD April 2023	FGC TBD 1 April 2023	FGC TBD 2 April 2023	FGC Teleconference May 2023	WRC TBD May 2023	FGC TBD 1 June 2023	FGC TBD 2 June 2023	MRC TBD July 2023
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																							
Ridgeback Prawn Incidental Take Allowance	120(e)																							
North Yuba River Special Fishing Regulations (FGC Petition 2021-020) ⁸	TBD																							
Commercial Take of Pacific Herring: Lampara Bait Nets ⁷	163, 163.1																							

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) EUF = Effective Upon Filing w/ Secretary of State
 N = Notice Hearing D = Discussion Hearing A = Adoption Hearing V = Vetting R = Committee Recommendation
 4 = Includes FGC Petition 2018-003 6 = Includes FGC Petition 2019-012 7 = Includes FGC Petition 2020-015 8 = To be included in a future sportfishing regulations update