

STAFF SUMMARY FOR DECEMBER 11-12, 2019

37B. ADMINISTRATIVE ITEMS – RULEMAKING TIMETABLE**Today's Item**Information Action

Review and consider approving requested changes to the perpetual timetable for anticipated regulatory actions.

Summary of Previous/Future Actions

- FGC approved changes to rulemaking timetable Oct 9-10, 2019; Valley Center
- **Today consider approving proposed changes to the rulemaking timetable Dec 11-12, 2019; Sacramento**

Background

This is a standing agenda item for FGC staff or DFW to request changes to the FGC regulatory timetable. FGC staff is not proposing changes for this meeting; however, DFW requests (Exhibit 1) two changes to the FGC regulatory timetable:

- Add a rulemaking to amend sections 163 and 164 related to the commercial harvest of herring eggs on kelp (HEOK) and schedule for notice at the Apr 2020 meeting, discussion at the Jun 2020 meeting, and adoption at the Aug 2020 meeting.

Rationale: At FGC's Oct 2019 meeting, during the hearing to adopt implementing regulations for the Pacific Herring Fishery Management Plan, errors and concerns were identified related to commercial HEOK by a fishery participant. To avoid holding up FGC adoption of the broader rulemaking, DFW committed to undertake a rulemaking to address the concerns with the goal of having the regulations effective prior to the start of the next season.

FGC staff notes that a commercial fishery rulemaking may be completed in a two-meeting process, as was discussed at the Nov 2019 Marine Resources Committee meeting. Given the desire to have the regulations approved in time to issue permits for the next commercial HEOK season, staff recommends scheduling this new rulemaking for notice in Apr 2020 and discussion/adoption in Jun 2020.

- Add a rulemaking titled "Recreational Dungeness Crab Marine Life Protection Measures" to amend sections 1.74, 29.80, 29.85 and 29.91. The proposed schedule is notice at the Apr 2020 meeting, discussion at the Jun 2020 meeting, and adoption at the Aug 2020 meeting.

Rationale: The proposed rulemaking would add provisions to the recreational Dungeness crab fishery to contribute to whale-safe actions concurrent with the whale-safe measures and in-season management actions planned or already underway for the commercial Dungeness crab fishery. This request is consistent with FGC's Aug 2019 approval of an MRC recommendation that DFW explore a suite of common-sense management measures for the recreational crab fishery, and is directly related to Agenda Item 30 (this meeting) regarding whale and turtle protections in the recreational Dungeness crab fishery.

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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, except specify a two-meeting process for the commercial HEOK rulemaking with notice in Apr 2020 and discussion/adoption in Jun 2020.

Exhibits

1. [DFW memo, received Dec 2, 2019](#)
2. [Proposed timetable for anticipated regulatory actions, dated Dec 4, 2019](#)

Motion/Direction

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

Signed original received by FGC on Dec 2, 2019 at 10:30 a.m. and is on file.

State of California
Department of Fish and Wildlife

M e m o r a n d u m

Date: November 27, 2019

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 163 and 164 to clarify implementing regulations for the Herring Fishery Management Plan related to the harvest of herring eggs on kelp.
 - The proposed schedule is notice at the April 2020 meeting, discussion at the June 2020 meeting, and adoption at the August 2020 meeting.
- Add a rulemaking titled "Recreational Dungeness Crab Marine Life Protection Measures" to amend Sections 1.74, 29.80, 29.85, and 29.91. The purpose of this rulemaking is to align the recreational Dungeness crab fishery with the whale safe measures and in-season management actions planned or already underway for the commercial Dungeness crab fishery.
 - The proposed schedule is notice at the April 2020 meeting, discussion at the June 2020 meeting, and adoption at the August 2020 meeting.

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.

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Perpetual Timetable for Anticipated Regulatory Actions

Updated: Wednesday, December 4, 2019

Items proposed for change are shown in blue underlined font

Regulatory Change Category	Title 14 Section(s)	FGC Sacramento Dec 11, 2019	FGC Sacramento Dec 12, 2019	WRC Los Angeles Area Jan 16, 2020	TC Los Angeles Area Jan 17, 2020	FGC Sacramento Feb 5, 2020	FGC Sacramento Feb 6, 2020	WRC Sacramento Mar 5, 2020	MRC Santa Rosa Mar 17, 2020	FGC Sacramento Apr 15, 2020	FGC Sacramento Apr 16, 2020	Teleconference May 14, 2020	WRC Santa Rosa May 14, 2020	FGC Santa Ana Area Jun 24, 2020	FGC Santa Ana Area Jun 25, 2020	MRC San Clemente Area Jul 21, 2020	TC Fortuna Area Aug 18, 2020	FGC Fortuna Area Aug 19, 2020	FGC Fortuna Area 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
Recreational and Commercial Pacific Herring (Fishery Management Plan Implementation)	26.50, 28.50, 28.60, 28.62, 55.00, 55.01, 55.02, 163, 163.1, 163.5, 164 and 705			E 1/1																				
Experimental Fishing Permit (EFP) Program (Phase I)	90 and 704			E 1/1																				
Possession of Nongame Animals (Nutria)	473	A								E 4/1														
Klamath River Basin 2084 (Emergency)	7.50(b)(91.2)	<u>EE 12/24</u>																						
Klamath River Basin 2084 (Emergency) (First 90-day Extension)	7.50(b)(91.2)		A	E 12/24 through 3/22					<u>EE 3/23</u>															
Klamath River Basin 2084 (Emergency) (Second 90-day Extension)	7.50(b)(91.2)					A				E 3/23 through 6/20				<u>EE 6/21</u>										
Klamath River Basin 2084 (Implementing Certificate of Compliance)	7.50(b)(91.2)	N					D				A			E 6/21										
Wildlife Areas/Public Lands and Ecological Reserves	550, 550.5, 551, 552, 630 and 702	N					D				A					E 7/1								
Mammal Hunting	360, 361, 362, 363, 364 and 364.1	N					D				A					E 7/1								
Waterfowl (Annual)	502, 507	N					D				A					E 7/1								
Central Valley Sport Fishing (Annual)	<u>2.35, 7.00</u> , 7.50(b)(5), (68), (124), (156.5)	N					D				D	A				E 7/16								
Klamath River Basin Sport Fishing (Annual)	7.50(b)(91.1)	N					D				D	A					E 8/15							
<u>Commercial Pacific Herring (Fishery Management Plan Implementation)</u>	<u>163, 164</u>									<u>N</u>				<u>D/A</u>									<u>E 11/1</u>	
<u>Recreational Dungeness Crab Marine Life Protection Measures</u>	<u>1.74, 29.80, 29.85, 29.91</u>									<u>N</u>				<u>D</u>				<u>A</u>						
Simplification of Statewide Inland Fishing Regulations ²	5.00, 7.00, 7.50, 8.10			V	V			R							N								A	

Rulemaking Schedule to be Determined	Title 14 Section(s)	FGC Sacramento Dec 11, 2019	FGC Sacramento Dec 12, 2019	WRC Los Angeles Area Jan 16, 2020	TC Los Angeles Area Jan 17, 2020	FGC Sacramento Feb 5, 2020	FGC Sacramento Feb 6, 2020	WRC Sacramento Mar 5, 2020	MRC Santa Rosa Mar 17, 2020	FGC Sacramento Apr 15, 2020	FGC Sacramento Apr 16, 2020	Teleconference May 14, 2020	WRC Santa Rosa May 14, 2020	FGC Santa Ana Area Jun 24, 2020	FGC Santa Ana Area Jun 25, 2020	MRC San Clemente Area Jul 21, 2020	TC Fortuna Area Aug 18, 2020	FGC Fortuna Area Aug 19, 2020	FGC Fortuna Area 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
Santa Cruz Harbor Salmon Fishing (FGC Petition #2016-018)	TBD																							
European Green Crab (FGC Petition #2017-006)	TBD																							
Wildlife Areas/Public Lands ¹	TBD																							
Experimental Fishing Permit (EFP) Program (Phase II)	TBD																							
Commercial Kelp and Algae Harvest Management	165, 165.5, 704																							
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 = Fish and Game Commission; MRC = Marine Resources Committee; WRC = Wildlife Resources Committee; TC = 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

¹ = Includes FGC Petition #2018-003 and FGC Petition #2018-005

² = Includes FGC Petition #2018-008