

Commissioners
Eric Sklar, President
Saint Helena
Jacque Hostler-Carmesin, Vice President
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Russell E. Burns, Member
Napa
Peter S. Silva, Member
Jamul
Samantha Murray, Member
Del Mar

STATE OF CALIFORNIA
Gavin Newsom, Governor

Melissa Miller-Henson
Executive Director
P.O. Box 944209
Sacramento, CA 94244-2090
(916) 653-4899
fgc@fgc.ca.gov
www.fgc.ca.gov

Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

MEETING AGENDA **October 9-10, 2019**

Rincon Government Center
One Government Center Lane, Valley Center, CA 92082

The meeting will be live streamed; visit www.fgc.ca.gov the day of the meeting.

NOTE: See important meeting deadlines and procedures at the end of the agenda. Unless otherwise indicated, the California Department of Fish and Wildlife is identified as Department.

Invitation: The Commission invites members of the public to join commissioners and staff for one or more field trips that will take place following the meeting recess on Wednesday; details will be released before the Commission meeting. Members of the public are welcome but must provide their own transportation.

DAY 1 – OCTOBER 9, 2019, 9:00 AM

Call to order/roll call to establish quorum

- 1. Consider approving agenda and order of items**
- 2. General public comment for items not on agenda**
Receive public comment regarding topics within the Commission's authority that are not included on the agenda.
Note: The Commission **may not** discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting (sections 11125 and 11125.7(a), Government Code).

CONSENT ITEMS

3. Foothill yellow-legged frog

Receive the Department's one-year status review report on the petition to list foothill yellow-legged frog (*Rana boylei*) as an endangered or threatened species under the California Endangered Species Act.
(Pursuant to Section 2074.6, Fish and Game Code)

4. Executive director's report

Receive an update from the executive director on staffing and legislative information.

(A) Staff report

(B) Legislative report, federal regulatory notices, and possible action

I. Discuss AB 1080 and SB 54 and consider authorizing a comment letter

II. Discuss Pacific Fishery Management Council consideration of authorizing pelagic fishing using longline gear and consider submitting a comment letter

5. Tribal Committee

Discuss updates and recommendations from the October 8, 2019 committee meeting. Consider approving new topics to address at a future committee meeting.

(A) October 8, 2019 meeting summary

I. Receive and consider adopting recommendations

(B) Work plan development

I. Update on work plan and draft timeline

II. Discuss and consider approving new topics

6. Wildlife Resources Committee

Discuss updates and recommendations from the September 10, 2019 committee meeting. Consider approving new topics to address at a future committee meeting.

(A) September 10, 2019 meeting summary

I. Receive and consider adopting recommendations

(B) Work plan development

I. Update on work plan and draft timeline

II. Discuss and consider approving new topics

7. Possession of nongame animals (nutria)

Discuss proposed changes to possession of nongame animals regulations, in order to exclude nutria (*Myocastor coypus*) from the list of nongame animals that can be possessed alive with a special permit.

(Section 473, Title 14, CCR)

8. Wildlife and inland fisheries items of interest from previous meetings

These items are generally updates on agenda topics recently heard before the Commission.

(A) Update on stakeholder discussions related to the Commission's draft Delta Fisheries Management Policy and existing Striped Bass Policy

9. **Wildlife and inland fisheries petitions for regulation change**
Consider requests submitted by members of the public to adopt, amend, or repeal a regulation.
(Pursuant to Section 662, Title 14, CCR)
- (A) Action on current petitions
 - I. Petition #2019-013: Authorize falconers and raptor propagators to receive non-releasable raptors from rehabilitation facilities
 - II. Petition #2019-016 AM 1: Authorize spring bear hunting
 - III. Petition #2019-017 AM 1: Establish an open archery season for bear and deer hunting in Marble Mountain and Trinity Alps wilderness areas
 - IV. Petition #2019-018: Exempt ferrets from the list of restricted species
 - (B) Action on pending regulation petitions referred to staff or the Department for review – None scheduled at this time
10. **Wildlife and inland fisheries non-regulatory requests from previous meetings**
Consider non-regulatory requests submitted by members of the public at previous meetings.
- (A) Action on non-regulatory requests
 - (B) Action on pending non-regulatory requests referred to staff or the Department for review
11. **Strategic planning**
Receive an update on the strategic planning process, discuss initial input received through interviews and surveys, and initial discussion about goals and objectives.
12. **Departmental informational items (wildlife and inland fisheries)**
The Department will highlight wildlife and inland fisheries items of note since the last Commission meeting.
- (A) Director's report
 - (B) Law Enforcement Division
 - (C) Wildlife and Fisheries Division, and Ecosystem Conservation Division
13. **Commission administrative items**
- (A) Next meeting – December 11-12, 2019 in Sacramento
 - (B) Rulemaking timetable updates
 - (C) New business

Recess

DAY 2 – OCTOBER 10, 2019, 9:00 AM

Call to order/roll call to establish quorum

14. **General public comment for items not on agenda**
Receive public comment regarding topics within the Commission’s authority that are not included on the agenda.
Note: The Commission **may not** discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting (sections 11125 and 11125.7(a), Government Code).
15. **Marine Resources Committee**
Discuss and consider approving draft agenda topics for the next committee meeting. Consider approving new topics to address at a future committee meeting.
 - (A) Work plan development
 - I. Update on work plan and draft timeline
 - II. Discuss and consider approving new topics
 - (B) Update on abalone fishery management plan
16. **Experimental fishing permit program (Phase 1)**
Discuss and consider adopting proposed changes to experimental fishing permit (EFP) regulations, to allow for issuing EFPs to fishermen that were issued experimental gear permits in 2018 for the box crab experimental gear permit program, as approved by the Commission.
(Adopt Chapter 5.6, Section 90; and adopt Section 704, Title 14, CCR)
17. **Pacific Herring Fishery Management Plan (FMP)**
Discuss and consider adopting the draft Pacific Herring FMP.
(Pursuant to Fish and Game Code Section 7075, et seq.)
18. **Pacific herring regulations**
Consider adopting Pacific herring sport fishing and commercial take regulations that implement the Pacific Herring FMP.
(Add sections 55.00, 55.01, and 55.02, and amend sections 27.60, 28.60, 28.62, 163, 163.1, 163.5, 164, and 705, Title 14, CCR)
19. **Malibu Oyster Company application for state water bottom lease**
Determine whether considering a new shellfish aquaculture lease offshore Malibu as applied for by Malibu Oyster Company would be in the public interest.
(Pursuant to Section 15400, Fish and Game Code)

20. **Marine items of interest from previous meetings**

These items are generally updates on agenda topics recently heard before the Commission.

- (A) Update on razor clams/domoic acid

21. **Marine petitions for regulation change**

Consider requests submitted by members of the public to adopt, amend, or repeal a regulation.

(Pursuant to Section 662, Title 14, CCR)

- (A) Action on current petitions

- I. Petition #2019-014: Increase restrictions on recreational take of California grunion

- (B) Action on pending regulation petitions referred to staff or the Department for review – None scheduled at this time

22. **Departmental informational items (marine)**

The Department will highlight marine items of note since the last Commission meeting.

- (A) Director's report

- (B) Law Enforcement Division

- (C) Marine Region

- I. MLMA master plan prioritization

Adjourn

EXECUTIVE SESSION
(Not Open to Public)

At a convenient time during the regular agenda of the meeting listed above, the Commission will recess from the public portion of the agenda and conduct a closed session on the agenda items below. The Commission is authorized to discuss these matters in a closed session pursuant to Government Code Section 11126, subdivisions (a)(1), (c)(3), and (e)(1), and Fish and Game Code Section 309. After closed session, the Commission will reconvene in public session, which may include announcements about actions taken during closed session.

(A) Pending litigation to which the Commission is a Party

- I. Dennis Sturgell v. California Department of Fish and Wildlife, and California Fish and Game Commission (revocation of Dungeness crab vessel permit No. CT0544-T1)
- II. Public Interest Coalition v. California Fish and Game Commission (CEQA compliance during adoption of dog collar regulation)
- III. Aaron Lance Newman v. California Fish and Game Commission (revocation of hunting and sport fishing privileges)
- IV. Adam Aliotti and Alicia Dawn, Inc. v. California Fish and Game Commission, and California Department of Fish and Wildlife (suspension of commercial fishing license and tier-1 spot prawn trap vessel permit)
- V. Almond Alliance of California et al. v. California Fish and Game Commission and California Department of Fish and Wildlife (bumble bees California Endangered Species Act determination)

(B) Possible litigation involving the Commission

(C) Staffing

(D) Deliberation and action on license and permit items

- I. Consider Agency Case No. 19ALJ11-FGC, the appeal filed by Darren Johnson regarding the Department's denial of a request to renew a salmon vessel permit.

California Fish and Game Commission 2019 and 2020 Meeting Schedule

Note: As meeting dates and locations can change, please visit www.fgc.ca.gov for the most current list of meeting dates and locations.

2019			
Meeting Date	Commission Meeting	Committee Meeting	Other Meetings
November 5		Marine Resources Natural Resources Building 12 th Floor Conference Room 1416 Ninth Street, Room 1206 Sacramento, CA 95814	
December 11-12	Natural Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		

2020			
Meeting Date	Commission Meeting	Committee Meeting	Other Meetings
January 16		Wildlife Resources Los Angeles area	
January 17		Tribal Los Angeles area	
February 5-6	Natural Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		
March 17		Marine Resources Justice Joseph A. Rattigan Building Conference Room 410 (4 th Floor) 50 D Street Santa Rosa, CA 95404	
March 18			Annual Tribal Planning Meeting
April 15-16	Natural Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		

2020			
Meeting Date	Commission Meeting	Committee Meeting	Other Meetings
May 14	Teleconference Santa Rosa, Sacramento, Arcata, and San Diego		
May 14		Wildlife Resources Justice Joseph A. Rattigan Building Conference Room 410 (4 th Floor) 50 D Street Santa Rosa, CA 95404	
June 24-25	Santa Ana area		
July 21		Marine Resources San Clemente area	
August 18		Tribal Fortuna area	
August 19-20	Fortuna area		
September 17		Wildlife Resources Natural Resources Building Redwood Room, 14 th Floor 1416 Ninth Street Sacramento, CA 95814	
October 14-15	Elihu M Harris Building Auditorium 1515 Clay Street Oakland, CA 94612		
November 9		Tribal Monterey area	
November 10		Marine Resources Monterey area	
December 9-10	San Diego area		

OTHER 2019 AND 2020 MEETINGS OF INTEREST

Association of Fish and Wildlife Agencies

- No additional 2019 meetings are scheduled at this time
- March 8-13, 2020, Omaha, NE
- September 13-16, 2020, Sacramento, CA

Pacific Fishery Management Council

- November 13-20, 2019, Costa Mesa, CA
- March 3-9, 2020, Rohnert Park, CA
- April 3-10, 2020, Vancouver, WA
- June 11-18, 2020, San Diego, CA
- September 10-17, 2020, Spokane, WA

- November 13-20, 2020, Garden Grove, CA

Pacific Flyway Council

- No additional 2019 meetings are scheduled at this time
- March 2020 (date/location TBD)
- August/September 2020 (date/location TBD)

Western Association of Fish and Wildlife Agencies

- No additional 2019 meetings are scheduled at this time
- January 9-12, 2020, Monterey, CA
- July 9-14, 2020, Park City, UT

Wildlife Conservation Board

- November 21, 2019, Sacramento, CA
- No additional 2020 meetings are scheduled at this time

IMPORTANT COMMISSION MEETING PROCEDURES INFORMATION

WELCOME TO A MEETING OF THE CALIFORNIA FISH AND GAME COMMISSION

This year marks the beginning of the 150th year of operation of the Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making; Commission meetings are vital in achieving that goal. In that spirit, we provide the following information to be as effective and efficient toward that end. Welcome and please let us know if you have any questions.

PERSONS WITH DISABILITIES

Persons with disabilities needing reasonable accommodation to participate in public meetings or other Commission activities are invited to contact the Reasonable Accommodation Coordinator at (916) 651-1214. Requests for facility and/or meeting accessibility should be received at least 10 working days prior to the meeting to ensure the request can be accommodated.

STAY INFORMED

To receive meeting agendas and regulatory notices about those subjects of interest to you, please visit the Commission's website, www.fgc.ca.gov, to sign up on our electronic mailing lists.

SUBMITTING WRITTEN COMMENTS

The public is encouraged to comment on any agenda item. Submit written comments by one of the following methods: **E-mail** to fgc@fgc.ca.gov; **mail** to California Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090; **delivery** to California Fish and Game Commission, 1416 Ninth Street, Room 1320, Sacramento, CA 95814; or **hand-deliver to a Commission meeting**. Materials provided to the Commission may be made available to the general public.

COMMENT DEADLINES

The **Written Comment Deadline** for this meeting is **5:00 p.m. on September 26, 2019.**

Written comments received at the Commission office by this deadline will be made available to Commissioners prior to the meeting.

The **Late Comment Deadline** for this meeting is **noon on October 4, 2019.** Comments received by this deadline will be marked "late" and made available to Commissioners at the meeting.

After these deadlines, written comments may be delivered in person to the meeting – Please bring ten (10) copies of written comments to the meeting.

NON-REGULATORY REQUESTS

All non-regulatory requests will follow a two-meeting cycle to ensure proper review and thorough consideration of each item. All requests submitted by the **Late Comment Deadline** (or heard during public comment at the meeting) will be scheduled for receipt at this meeting, and scheduled for consideration at the next business meeting.

PETITIONS FOR REGULATION CHANGE

Any person requesting that the Commission adopt, amend, or repeal a regulation must complete and submit form FGC 1, titled, "Petition to the California Fish and Game Commission for Regulation Change" (as required by Section 662, Title 14, CCR). The form is available at <https://fgc.ca.gov/Regulations/Petition-for-Regulation-Change>. To be received by the Commission at this meeting, petition forms must have been delivered by the **Late Comment Deadline** (or delivered during public comment at the meeting). Petitions received at this meeting will be scheduled for consideration at the next business meeting, unless the petition is rejected under staff review pursuant to subsection 662(b), Title 14, CCR.

VISUAL PRESENTATIONS/MATERIALS

All electronic presentations must be submitted by the **Late Comment Deadline** and approved by the Commission executive director before the meeting.

1. Electronic presentations must be provided by email to fgc@fgc.ca.gov.
2. All electronic formats must be Windows PC compatible.
3. It is recommended that a print copy of any electronic presentation be submitted in case of technical difficulties.
4. A data projector, laptop and presentation mouse will be available for use at the meeting.

CONSENT CALENDAR

A summary of all items will be available for review at the meeting. Items on the consent calendar are generally non-controversial items for which no opposition has been received and will be voted upon under single action without discussion. Any item may be removed from the consent calendar by the Commission upon request of a Commissioner, the Department, or member of the public who wishes to speak to that item, to allow for discussion and separate action.

LASER POINTERS

Laser pointers may only be used by a speaker during a presentation; use at any other time may result in arrest.

SPEAKING AT THE MEETING

To speak on an agenda item, please complete a "Speaker Card" and give it to the designated staff member before the agenda item is announced. Cards will be available near the entrance of the meeting room. Only one speaker card is necessary for speaking to multiple items.

1. Speakers will be called in groups; please line up when your name is called.
2. When addressing the Commission, give your name and the name of any organization you represent, and provide your comments on the item under consideration.
3. If there are several speakers with the same concerns, please appoint a spokesperson and avoid repetitive testimony.
4. The presiding commissioner will allot between one and three minutes per speaker per agenda item, subject to the following exceptions:
 - a. The presiding commissioner may allow up to five minutes to an individual speaker if a minimum of three individuals who are present when the agenda item is called have ceded their time to the designated spokesperson, and the individuals ceding time forfeit their right to speak to the agenda item.
 - b. Individuals may receive advance approval for additional time to speak if requests for

additional time to speak are received by email or delivery to the Commission office by the **Late Comment Deadline**. The president or designee will approve or deny the request no later than 5:00 p.m. two days prior to the meeting.

- c. An individual requiring an interpreter is entitled to at least twice the allotted time pursuant to Government Code Section 11125.7(c).
 - d. An individual may receive additional time to speak to an agenda item at the request of any commissioner.
5. If you are presenting handouts/written material to the Commission at the meeting, please provide ten (10) copies to the designated staff member just prior to speaking.