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STATE OF CALIFORNIA  
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## Fish and Game Commission



*Wildlife Heritage and Conservation  
Since 1870*

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### **REVISED\* MEETING AGENDA** **October 14, 2021, 9:00 AM**

#### **Webinar and Teleconference**

Pursuant to California Government Code Section 11133, the California Fish and Game Commission is conducting this meeting by webinar and teleconference. Commission members will participate remotely. The public may provide public comment during the public comment periods and otherwise observe remotely, consistent with the Bagley-Keene Open Meeting Act.

**\*This agenda was revised on October 1 to continue items 10 and 11 to a future meeting.**

***The meeting will be live streamed; visit [www.fgc.ca.gov](http://www.fgc.ca.gov) the day of the meeting to watch or listen. To provide public comment during the meeting, please join via Zoom Webinar or by telephone; [click here for instructions on how to join.](#)***

**Note: See important meeting deadlines and procedures, including written public comment deadlines, starting on page 9. Unless otherwise indicated, the California Department of Fish and Wildlife is identified as Department.**

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#### **CALL TO ORDER/ROLL CALL TO ESTABLISH QUORUM**

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- 1. Consider approving agenda and order of items**

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#### **GENERAL PUBLIC COMMENT**

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- 2. General public comment for items not on the agenda**

Receive public comment regarding topics within the Commission's authority that are not included on the agenda. New petitions for regulation change submitted since the previous meeting are received under this item.

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).

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## CONSENT ITEMS

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Note: Items on the consent calendar are expected to be routine and non-controversial. After public comment, the Commission will consider approving items on the consent calendar in a single vote without discussion. The presiding commissioner may choose to remove any item from the consent calendar and allow a separate discussion and potential action on that item in response to a request by a Commission member, staff, or an interested person.

**3. Cascades frog**

Receive the Department's one-year status review report on the petition to list Cascades frog (*Rana cascadae*) as threatened or endangered under the California Endangered Species Act (CESA).

(Pursuant to Section 2074.6, Fish and Game Code)

***Staff will recommend that this item be continued to a future meeting.***

**4. San Bernardino kangaroo rat**

Receive the Department's one-year status review report on the petition to list San Bernardino kangaroo rat (*Dipodomys merriami parvus*) as endangered under CESA.

(Pursuant to Section 2074.6, Fish and Game Code)

***Staff will recommend that this item be continued to a future meeting.***

**5. Desert pupfish**

Receive the Department's five-year status review report for desert pupfish (*Cyprinodon macularius*), which is listed as endangered under CESA.

(Pursuant to Section 2077, Fish and Game Code)

***Staff will recommend that this item be continued to a future meeting.***

**6. Mohave desert tortoise**

Consider approving the Department's request for a six-month extension to deliver the one-year status review report on the petition to change the status of Mohave desert tortoise (also known as Agassiz's desert tortoise) (*Gopherus agassizii*) from threatened to endangered under CESA.

(Pursuant to Section 2074.6, Fish and Game Code)

**7. Recreational clam, sand crab, and shrimp gear emergency**

Discuss and consider adopting a 90-day extension of emergency regulations to prohibit use of hydraulic pump gear for recreational take of clams, including clarifying amendments to apply the gear restriction to sand crab and shrimp.

(Amend sections 29.20 and 29.80, Title 14, CCR)

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## DISCUSSION, ACTION, AND INFORMATIONAL ITEMS

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**8. Executive director's report**

Receive updates from the executive director on items of note since the previous Commission meeting, including a resolution recognizing Stafford Lehr, the Department's former liaison to the Commission.

**9. Department informational items: Director's and Law Enforcement Division reports**

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

- 10. Upper Klamath-Trinity river spring Chinook salmon**  
Consider ratifying findings on the decision to list upper Klamath-Trinity river spring Chinook salmon (*Oncorhynchus tshawytscha*) as threatened under CESA.  
(Pursuant to Section 2075.5, Fish and Game Code)  
***Staff will recommend that this item be continued to a future meeting.***
- 11. Northern California summer steelhead**  
Consider ratifying findings on the decision to list northern California summer steelhead (*Oncorhynchus mykiss irideus*) as endangered under CESA.  
(Pursuant to Section 2075.5, Fish and Game Code)  
***Staff will recommend that this item be continued to a future meeting.***
- 12. Western Joshua tree**

  - (A) Discuss and consider adopting a 90-day extension of emergency regulations for a process to take western Joshua tree (*Yucca brevifolia*) during the CESA candidacy period.  
(Amend Section 749.11, Title 14, CCR; Pursuant to Sections 399 and 2084, Fish and Game Code)
  - (B) Discuss and consider adopting a 90-day extension of emergency regulations for incidental take of a limited number of western Joshua tree during its candidacy period under certain circumstances.  
(Amend Section 749.12, Title 14, CCR; Pursuant to Sections 399 and 2084, Fish and Game Code)
- 13. Department informational item: Wildlife and Fisheries Division, and Ecosystem Conservation Division reports**  
The Department will highlight items of note since the last Commission meeting.
- 14. Wildlife Resources Committee**  
Receive summary and consider approving recommendations from the September 16, 2021 committee meeting. Discuss referred topics and consider revisions to topics and timing.

  - (A) Previous committee meeting report
  - (B) Committee work plan
- 15. Mammal hunting preference points and tag refunds**  
Consider authorizing publication of notice of intent to amend regulations for big game species preference points and tag refunds.  
(Amend Section 708.14, Title 14, CCR)
- 16. Tribal Committee**  
Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics for the next committee meeting on December 14, 2021.

  - (A) Committee work plan
  - (B) Next committee meeting

- 17. Legislation and other agency regulations**  
Receive updates on recent legislative activity, status of letters of support, and regulatory actions under consideration by other agencies. Consider providing direction to staff on potential actions.
- 18. Committee workload prioritization**  
Receive an update on the committee workload prioritization tool and its application.
- 19. Justice, equity, diversity and inclusion**  
Receive and discuss an update on developing the justice, equity, diversity, and inclusion plan.
- 20. Departmental informational item: Marine Region report**  
The Department will highlight items of note since the last Commission meeting.
- 21. Marine Resources Committee**  
Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics for the next committee meeting on November 9, 2021.
  - (A) Committee work plan
  - (B) Next committee meeting
- 22. California grunion**  
Consider authorizing publication of notice of intent to amend regulations for grunion limits and season.  
(Amend subsection 27.60(b) and Section 28.00, Title 14, CCR)
- 23. Experimental Fishing Permit (EFP) Program, Phase II**  
Discuss proposed Experimental Fishing Permit (EFP) Program, Phase II regulations.  
(Add Section 91, amend sections 90, 120.1, 149, 180, and 704, and repeal Section 149.3, Title 14, CCR)
- 24. Commercial kelp harvest permit**  
Consider approving permit for Lance (Jeff) Maassen to commercially harvest *Sargassum horneri* at Anacapa Island, Ventura County, and Santa Rosa Island, Santa Barbara County, and approve permit conditions and royalty fee.  
(Pursuant to subsection 165(f)(1), Title 14, CCR)
- 25. Pacific leatherback sea turtle**  
Consider the petition, Department's status review report, and comments received to determine whether listing Pacific leatherback sea turtle (*Dermochelys coriacea*) as threatened or endangered under CESA is warranted.  
(Pursuant to sections 2075 and 2075.5, Fish and Game Code)

**26. Petitions for regulation change received at previous meetings**

Consider whether to grant, deny, or refer for additional review petitions for regulation change received under general public comment at previous meetings.

Note: New petitions for regulation change will be received under general public comment. Any petitions granted today will be added to the Commission's rulemaking calendar for development and future consideration.

(Pursuant to Section 662, Title 14, CCR)

(A) Action on current petitions

- I. Petition 2021-013: Request to revise regulations for commercial market squid fishing in Monterey Bay, including changes to allowed days, times, and lighting

(B) Action on pending regulation petitions referred to staff or the Department for review

- I. Petition 2020-015: Request to amend Pacific herring regulations to exempt lampara bait nets from gear restrictions
- II. Petition 2021-001: Request to restore recreational and commercial red abalone harvest at San Miguel Island, Santa Barbara County

**27. Non-regulatory requests from previous meetings**

Consider and potentially act on non-regulatory requests submitted by members of the public at previous meetings.

**28. Commission administrative items**

- (A) Rulemaking timetable updates
- (B) Next meeting – December 15-16, 2021
- (C) New business

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. 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)
  - II. The Ballona Wetlands Land Trust v. California Fish and Game Commission (Ballona Wetlands Ecological Reserve petition for regulation change)
  - III. California Construction and Industrial Materials Association et al. v. California Fish and Game Commission (western Joshua tree California Endangered Species Act determination)
  - IV. Albert Thomas Paulek v. California Fish and Game Commission (CEQA determination regarding Section 749.10, Title 14, CCR authorizing take of western Joshua tree under section 2084)
  - V. Albert Thomas Paulek v. California Fish and Game Commission (CEQA determination regarding Sections 749.11 and 749.12, Title 14, CCR authorizing take of western Joshua tree under section 2084)
  - VI. Fall River Conservancy and California Trout v. California Fish and Game Commission and California Department of Fish and Wildlife (CEQA determination regarding amendments to inland trout regulations)
- (B) Possible litigation involving the Commission
- (C) Staffing
  - I. Executive director performance review process
- (D) Deliberation and action on license and permit items

## California Fish and Game Commission Meeting Schedule

**Note: As meeting dates and locations can change, please visit [www.fgc.ca.gov](http://www.fgc.ca.gov) for the most current list of meeting dates and locations.**

Meeting Date	Commission Meeting	Committee Meeting
November 9, 2021		<b>Marine Resources</b> Teleconference
December 14, 2021		<b>Tribal</b> Teleconference
December 15-16, 2021	Teleconference	
January 13, 2022		<b>Wildlife Resources</b> Sacramento
February 16-17, 2022	Sacramento	
March 24, 2022		<b>Marine Resources</b> Sacramento
April 19, 2022		<b>Tribal</b> Monterey/Santa Cruz area
April 20-21, 2022	Monterey/Santa Cruz area	
May 19, 2022	Teleconference	
May 19, 2022		<b>Wildlife Resources</b> Redding
June 15-16, 2022	Los Angeles/Orange County	
July 14, 2022		<b>Marine Resources</b> San Diego area
August 16, 2022		<b>Tribal</b> Fortuna
August 17-18, 2022	Fortuna	
September 15, 2022		<b>Wildlife Resources</b> Los Angeles/Inland Empire area
October 12-13, 2022	Truckee	
November 17, 2022		<b>Marine Resources</b> Monterey area
December 13, 2022		<b>Tribal</b> San Diego area
December 14-15, 2022	San Diego area	

## **Other Meetings of Interest**

### **Association of Fish and Wildlife Agencies**

- September 18-21, 2022, Fort Worth, TX

### **Pacific Fishery Management Council**

- November 15-22, 2021, Costa Mesa, CA
- March 8-14, 2022, San Jose, CA
- April 6-13, 2022, San Jose, CA
- June 7-14, 2022, Vancouver, WA
- September 7-14, 2022, Boise, ID
- November 2-8, 2022, Orange County, CA

### **Pacific Flyway Council**

- February 2022 – Dates and location TBD
- August 2022 – Dates and location TBD

### **Western Association of Fish and Wildlife Agencies**

- January 6-10, 2022, Tucson, AZ
- July 10-15, 2022 – Oklahoma City, OK

### **Wildlife Conservation Board**

- November 18, 2021, Webinar
- 2022 – Dates and locations TBD



## Important Commission Meeting Procedures Information

### Welcome to a Meeting of the California Fish and Game Commission

This year marks the 152<sup>nd</sup> 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 and we provide this 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 Department's Equal Employment Opportunity (EEO) Office at [EEO@wildlife.ca.gov](mailto:EEO@wildlife.ca.gov). Accommodation requests for facility and/or meeting accessibility and requests for American Sign Language (ASL) interpreters should be submitted at least two weeks prior to the event. Requests for real-time captioners should be submitted at least four weeks prior to the event. These timeframes are to help ensure that the requested accommodation is met. If a request for an accommodation has been submitted but is no longer needed, please contact the EEO Office immediately.

### Stay Informed

To receive meeting agendas and regulatory notices about those subjects of interest to you, visit the Commission's website, [www.fgc.ca.gov](http://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](mailto:fgc@fgc.ca.gov); mail to California Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090; deliver to California Fish and Game Commission, 715 P Street, 16<sup>th</sup> Floor, Sacramento, CA 95814 (you must call at least 24 hours in advance to arrange delivery). Materials provided to the Commission may be made available to the general public.

### Comment Deadlines

The **Comment Deadline** for this meeting is **5:00 p.m. on September 30, 2021**. Written comments received at the Commission office by this deadline will be made available to Commissioners prior to the meeting.

The **Supplemental Comment Deadline** for this meeting is **noon on October 8, 2021**. Comments received by this deadline will be made available to Commissioners at the meeting.

### Petitions for Regulation Change

Any person requesting that the Commission adopt, amend, or repeal a regulation must complete and submit form FGC 1, *Petition to the California Fish and Game Commission for Regulation Change* (as required by Section 662, Title 14, CCR), 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 **Supplemental Comment Deadline**. Petitions received at this meeting will be scheduled for consideration at the next regularly scheduled business meeting, unless the petition is rejected under staff review pursuant to subsection 662(b), Title 14, CCR.

## **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 **Supplemental Comment Deadline** (or heard during general public comment at the meeting) will be scheduled for receipt at this meeting and scheduled for consideration at the next regularly scheduled business meeting.

## **Speaking at the Meeting**

To speak on an agenda item, please “raise” your hand either through the Zoom function or by pressing \*9 once on your phone when prompted at the beginning of the agenda item.

1. Speakers will be called one at a time; please pay attention to 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. 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 **Supplemental 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.
  - b. An individual requiring an interpreter is entitled to at least twice the allotted time pursuant to Government Code Section 11125.7(c).
  - c. An individual may receive additional time to speak to an agenda item at the request of any commissioner.

## **Visual Presentations/Materials**

All electronic presentations must be submitted by the **Supplemental 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](mailto:fgc@fgc.ca.gov).
2. All electronic formats must be Windows PC compatible.