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Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

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REVISED* MEETING AGENDA **December 11-12, 2019**

Natural Resources Building – Auditorium, First Floor
1416 Ninth Street, Sacramento, CA 95814

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

***This agenda is revised to change the meeting start time on December 11 to 9:30 AM, add Item 4(B) concerning western Joshua tree, and delete Item 36(B)(I) concerning Petition #2019-002: Trap endorsement for commercial nearshore fishery permits (which has been withdrawn).**

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 and CCR indicates California Code of Regulations.

Invitation: The Commission invites members of the public to join commissioners and staff for a field trip related to falconry that will take place west of Sacramento following the meeting on Thursday afternoon; details will be released before the Commission meeting. Members of the public are welcome but must provide their own transportation.

DAY 1 – DECEMBER 11, 2019, 9:30 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).

3. California Waterfowler's Hall of Fame

Commission recognition of newly-inducted members of the California Waterfowler's Hall of Fame.

CONSENT ITEMS

4. Western Joshua tree

- (A) Receive a petition to list western Joshua tree (*Yucca brevifolia*) as a threatened or endangered species under the California Endangered Species Act (CESA). (Pursuant to Section 2073.3, Fish and Game Code, and subsection 670.1(c), Title 14, CCR)
- (B) Consider approving the Department's request for a 30-day extension to review the petition. (Pursuant to Section 2073.5, Fish and Game Code)

5. Shasta snow-wreath

- (A) Receive a petition to list Shasta snow-wreath (*Neviusia cliffonii*) as a threatened or endangered species under CESA. (Pursuant to Section 2073.3, Fish and Game Code, and subsection 670.1(c), Title 14, CCR)
- (B) Consider approving the Department's request for a 30-day extension to review the petition. (Pursuant to Section 2073.5, Fish and Game Code)

6. Mountain lion

Receive 90-day evaluation report from the Department for the petition to list mountain lion (*Puma concolor*) as a threatened or endangered species under CESA. (Pursuant to Section 2073.5, Fish and Game Code)

The Department will recommend that this item be continued to a future meeting.

7. Wild trout waters policy

Receive Department recommendation and consider adopting proposed amendments to the Commission's Designated Wild Trout Waters policy. (Pursuant to Section 1727, Fish and Game Code)

8. Possession of nongame animals (nutria)

Consider adopting proposed changes to regulations for possession of nongame animals, in order to exclude nutria (*Myocastor coypus*) from the list of nongame animals that can be possessed alive with a special permit. (Amend Section 473, Title 14, CCR)

9. Delta Fisheries Management Policy and Striped Bass Policy

Discuss and consider adopting a Commission Delta Fisheries Management Policy and an amended Striped Bass Policy.

10. Executive director's report

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

- (A) Staff report
 - I. Consider staff request to submit comments to the California Law Revision Commission for Phase I review of its tentative recommendation for a new California Fish and Wildlife Code
- (B) Legislative report and possible action
 - I. Discuss HR 3399 and consider authorizing a comment letter to support including California in the federal nutria eradication program

11. Strategic planning

Receive an update on the strategic planning process and discuss potential goals and objectives.

12. Department 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
 - I. Inland salmon 2019 season update and water flow
 - II. Update on Wildlife Waystation closure transition

13. Tribal 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

14. Wildlife 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

15. Mammal hunting

Consider authorizing publication of notice of intent to amend mammal hunting tag quotas and seasons regulations.

(Amend sections 360, 361, 362, 364, and 364.1, Title 14, CCR)

16. Waterfowl hunting (annual)

Consider authorizing publication of notice of intent to amend waterfowl hunting regulations.

(Amend sections 502 and 507, Title 14, CCR)

- 17. Public use of Department of Fish and Wildlife lands**
Consider authorizing publication of notice of intent to amend wildlife areas and ecological reserves regulations.
(Amend sections 550, 550.5, 551, 552, 630, and 702, Title 14, CCR)
- 18. Central Valley sport fishing**
Consider authorizing publication of notice of intent to amend Central Valley sport fishing regulations.
(Amend sections 2.35 and 7.00, and amend subsections 7.50(b)(5), (68), (124), and (156.5), Title 14, CCR)
- 19. Klamath River Basin sport fishing**
Consider authorizing publication of notice of intent to amend Klamath River Basin sport fishing regulations.
(Amend subsection 7.50(b)(91.1), Title 14, CCR)
- 20. Upper Klamath-Trinity spring Chinook salmon sport fishing emergency regulations (90-day extension)**
Consider adopting a 90-day extension of the upper Klamath-Trinity river spring Chinook salmon emergency regulations.
(Re-adopt subsection 7.50(b)(91.2), Title 14, CCR)
- 21. Upper Klamath-Trinity spring Chinook salmon sport fishing (certification of compliance)**
Consider authorizing publication of notice of intent to implement a certificate of compliance for the upper Klamath-Trinity river spring Chinook salmon emergency regulations.
(Add subsection 7.50(b)(91.2), Title 14, CCR)
- 22. Foothill yellow-legged frog**
Consider and potentially act on the petition, Department's evaluation report, and comments received to determine whether listing foothill yellow-legged frog (*Rana boylei*) as an endangered or threatened species under CESA is warranted.
(Pursuant to sections 2075 and 2075.5, Fish and Game Code)
Note: Findings will be adopted at a future meeting.
- 23. Status reviews for threatened and endangered species**
Receive status reviews from the Department for Baker's larkspur (*Delphinium bakeri*) and Clara Hunt's milkvetch (*Astragalus claranus*), which are listed as threatened or endangered under CESA, including a presentation on the legal mandate and process.
(Pursuant to Section 2077, Fish and Game Code)
- 24. 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 #2019-019 AM 1: Remove reticulated Gila monster from list of restricted species

- II. Petition #2019-020: Increase brown trout bag and possession limit within the Klamath-Trinity River basin
- III. Petition #2019-021: Change leader length restriction for fishing tackle in anadromous waters from less than six feet to less than thirteen feet
- (B) Action on pending regulation petitions referred to staff or the Department for review – None scheduled at this time

25. Wildlife and inland fisheries non-regulatory requests from previous meetings

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

Recess

DAY 2 – DECEMBER 12, 2019, 8:30 AM

Call to order/roll call to establish quorum

26. 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).

27. Department 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. Sea cucumber fishery collaborative management
 - II. Pacific Fishery Management Council update

28. Marine Resources Committee

Discuss updates and recommendations from the November 5, 2019 committee meeting. Consider approving new topics to address at a future committee meeting.

- (A) November 5, 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

29. Annual recreational ocean salmon and Pacific halibut regulations

Receive and discuss an update on Pacific Fishery Management Council process and timeline, and automatic conformance to federal regulations.
(Pursuant to Section 1.95, Title 14, CCR)

- 30. Whale and turtle protections in the recreational Dungeness crab fishery**
Receive update and potentially provide direction on draft Department-proposed regulation changes to provide additional whale and turtle protections in the recreational Dungeness crab fishery.
- 31. Statewide Marine Protected Areas (MPAs) Program**
Receive annual report from the Department on management activities of its Statewide MPAs Program.
- 32. Marine Life Management Act (MLMA) Master Plan implementation**
Receive Department update and possibly provide direction on a draft prioritized list of fisheries for more focused management, as prescribed in the MLMA master plan prioritization framework.
- 33. Hog Island Oyster Company**
Consider approving lease amendments applied for by Hog Island Oyster Company for State Water Bottom Lease Nos. M-430-10, M-430-11, M-430-12, and M-430-15 for purposes of aquaculture in Tomales Bay.
(Pursuant to Section 15400, Fish and Game Code)
- 34. Charles Friend Oyster Company State Water Bottom Lease No. M-430-04**
Consider approving renewal of Charles Friend Oyster Company's State Water Bottom Lease No. M-430-04 for purposes of aquaculture in Tomales Bay for a period of 15 years.
(Pursuant to Section 15406, Fish and Game Code)
- 35. Marine items of interest from previous meetings**
These items are generally updates on agenda topics recently heard before the Commission.
- (A) Department overview of razor clam sampling for domoic acid levels
- 36. 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 – None scheduled at this time
(B) Action on pending regulation petitions referred to staff or the Department for review
- I. Petition #2019-004 Retrieval of abandoned lobster traps
- 37. Commission administrative items**
- (A) Next meeting – February 5-6, 2020 in Sacramento (dates to be reconsidered)
(B) Rulemaking timetable updates
(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. 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. 18ALJ11-FGC, the appeal filed by Louis Ferrari regarding transferability of a nearshore fisheries permit.
 - II. Consider the Proposed Decision in Agency Case No. 18ALJ04-FGC, the appeal filed by Meo Nguyen regarding the Department's denial of a request to transfer a salmon vessel permit.

California Fish and Game Commission 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.

Meeting Date	Commission Meeting	Committee Meeting	Other Meetings
January 16		Wildlife Resources Los Angeles area	
January 17		Tribal Los Angeles area	
February 5 - 6 <i>(dates to be reconsidered)</i>	Natural Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		
March 5		Wildlife Resources* Natural Resources Building 1416 Ninth Street Sacramento, CA 95814 <i>* Purpose of meeting is to discuss simplification of statewide inland fishing regulations proposal</i>	
March 17		Marine Resources Justice Joseph A. Rattigan Building Conference Room 410 (4th Floor) 50 D Street Santa Rosa, CA 95404	
March 18			Annual Tribal Planning Justice Joseph A. Rattigan Building Conference Room 410 (4th Floor) 50 D Street Santa Rosa, CA 95404
April 15 - 16	Natural Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		
May 14	Teleconference Santa Rosa, Sacramento, Arcata and San Diego		
May 14		Wildlife Resources Justice Joseph A. Rattigan Building Conference Room 410 50 D Street Santa Rosa, CA 95404	
June 24 - 25	Santa Ana area		

Meeting Date	Commission Meeting	Committee Meeting	Other Meetings
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 2020 MEETINGS OF INTEREST

Association of Fish and Wildlife Agencies

- March 8-13, Omaha, NE
- September 13-16, Sacramento, CA

Pacific Fishery Management Council

- March 3-9, Rohnert Park, CA
- April 3-10, Vancouver, WA
- June 11-18, San Diego, CA
- September 10-17, Spokane, WA
- November 13-20, Garden Grove, CA

Pacific Flyway Council

- March 10 Omaha, NE
- August (date/location TBD)

Western Association of Fish and Wildlife Agencies

- January 9-12, Monterey, CA
- July 9-14, Park City, UT

Wildlife Conservation Board

- February 26, Sacramento, CA
- May 20, Sacramento, CA
- August 26, Sacramento, CA
- November 18, Sacramento, CA

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 November 27, 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 December 6, 2019. Comments received by this deadline will be 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 general 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 general 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.