

## Attachment A: Summary and Response to Public Recommendations for Commission and Committee Procedures

Source	Recommendation	Response
<b>Commission Votes</b>		
6/30/15, Eric Mills	If only three of the five commissioners are present, any issue on the agenda should be required to receive a 3:0 vote for passage. [Majority of the entire membership]	Reject: The proposed regulation includes a requirement that a motion shall pass or fail only upon majority vote of the members present and voting; more than one motion may be made and voted upon for each agenda item; and if no motion receives a majority vote, the item will be continued to a subsequent meeting
<b>Public Forum</b>		
6/30/15, Eric Mills	There should be public forum at the beginning and end of each day of each meeting.	Reject: The Commission has already determined that it will include public forum at the beginning or end of each meeting day, but not both; to date public comment has supported public forum at the beginning of the day and the Commission has chosen to accommodate that preference. It is not appropriate to provide the order of agenda items in regulation.
<b>Posting of Materials Prior to Meetings</b>		
12/3/15, Noelle Cremers, California Farm Bureau Federation	Farm Bureau requests that the regulations include the requirement that documents be posted at least five days, if not more, before the initial comment deadline to allow for reasonable review and comment opportunity on the specifics of the agenda item.	Reject: The Bagley-Keene Open Meeting Act requires that meeting materials be made available to the public once they have been distributed to a majority of the Commission members. The proposed regulation provides that the materials will be posted to the Commission's website once the Commissioners receive them. In addition, matters before the Commission usually require at least two meetings for completion; therefore, the public has ample time for comment.
<b>Committees are Subject to the Bagley-Keene Open Meeting Act</b>		
4/14/14 Michel & Associates	Because the Wildlife Resources Committee (WRC) was created by statute and because it includes more than one member, it is subject to the Bagley-Keene Open Meeting Act.	The proposed regulation requires Commission committees to comply with the Bagley-Keene Open Meeting Act.

<b>Source</b>	<b>Recommendation</b>	<b>Response</b>
7/18/14 Bell, McAndrews & Hiltachk	WRC is created by statute, and therefore is subject to the Bagley-Keene Open Meeting Act, regardless of whether it is a decision-making or advisory body.	The proposed regulation requires Commission committees to comply with the Bagley-Keene Open Meeting Act.
7/14/14 Safari Club International	WRC must publish its plan to meet.	Accept: The proposed regulation provides that committee meeting agendas are published at least 10 days prior to the meeting.
7/14/14 Safari Club International	Upon obtaining suggested presentations from the public, WRC should publish its proposed agenda.	Reject: The public may request, but does not assign WRC agenda items. The Commission, not WRC, determines WRC agendas. The proposed regulation provides that committee meeting agendas will be approved at the Commission meeting immediately prior to the committee meeting and that the president or president's designee may add items to the agenda. Consistent with the Bagley-Keene Open Meeting Act, the proposed regulation provides that Commission and committee meeting agendas will be distributed and posted to the Commission website at least ten days prior to the first day of a meeting.
7/14/14 Safari Club International	WRC should give the public adequate opportunity to prepare responses to agenda items and to submit requests to be heard on agenda items.	Accept: Consistent with current practice, the proposed regulation provides rules for submitting written comments and presentations on an agenda item, and rules for making oral comments or presentations at a meeting.
7/28/14 Michel & Associates	A committee meeting is subject to the Bagley-Keene Open Meeting Act if (a) any portion of the meeting relates to one or more matters within the Commission's jurisdiction, and (b) the meeting is attended (whether in person or otherwise) by all of the following: at least one WRC member, and least one Department employee, and at least one person who is neither a member of the Department nor affiliated with the Commission (e.g., non-committee member Commissioners or Commission staff)	Reject: The Bagley-Keene Open Meeting Act defines a meeting as any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains. (§11122.5, Government Code)
9/24/15 Michel & Associates	What is the process for arranging a WRC meeting? Who decides the date, and location?	The dates and locations of committee meetings are established annually by the Commission.

<b>Source</b>	<b>Recommendation</b>	<b>Response</b>
9/24/15 Michel & Associates	Who dictates what items will be discussed at WRC meetings? How are issues decided to be placed on the agenda for any given meeting? Is there a process for the public to suggest items for consideration by WRC?	<p>The proposed regulation provides that the Commission will approve committee meeting agenda topics at the Commission meeting immediately prior to the committee meeting.</p> <p>The public may suggest items for consideration by WRC by presenting the request to the Commission.</p>
9/24/15 Michel & Associates	Does WRC comply with the Bagley-Keene Act as it must? If so, does it have established procedures to maintain compliance? Who created those procedures?	<p>The proposed regulation requires Commission committees to comply with the Bagley-Keene Open Meeting Act.</p> <p>WRC currently complies with the requirements of the Bagley-Keene Open Meeting Act. The proposed regulations will codify procedures not duplicative of current laws and regulations. The proposed regulations are being developed by Commission staff as directed by the Commission.</p>
9/24/15 Michel & Associates	Until our questions are answered and the lack of transparency for what WRC is doing is addressed, it is inappropriate for WRC to engage in any more activity related to the Commission's policy making.	WRC meetings are publicly noticed and open to the public. WRC does not make policy decisions on behalf of the Commission, but is directed by statute to make recommendations to the Commission.
<b>Appointments to WRC</b>		
4/14/14 Michel & Associates	WRC should have at least two members.	Reject: WRC is required to have only one member (Section 106, Fish and Game Code); however, the Commission generally appoints two members. It would be inappropriate for more than two members to be on a committee as that would constitute a quorum of the Commission and would turn the committee meeting into a Commission meeting
7/14/14 Safari Club International	The membership of the WRC should be two Commissioners	
4/14/14 Michel & Associates	When the Commission makes its yearly appointment to WRC, it should, to the extent practicable, appoint two WRC members who have different backgrounds (e.g., a hunter and a member with non-hunting interests).	Reject: Committee appointments are dependent upon the background and interest of commissioners. Commissioners are appointed by the Governor (Article 4, Section 20, California Constitution).

<b>Source</b>	<b>Recommendation</b>	<b>Response</b>
7/28/14 Michel & Associates	To the extent feasible, the Commission shall place at least one Commissioner with substantial hunting experience on WRC.	Reject: Committee appointments are dependent upon the background and interest of commissioners. Commissioners are appointed by the Governor (Article 4, Section 20, California Constitution).
7/28/14 Michel & Associates	If WRC has a designee, the name of that designee should be announced at a Commission meeting prior to that designee acting as the designee of WRC.	Reject: It is impracticable to have a regulation requiring that the name of a designee be announced at a Commission meeting prior to a meeting that may not yet have been scheduled. Generally, the designee would be the wildlife advisor or executive director.
<b>Committee Quorum</b>		
7/11/14 Michel & Associates	By law, WRC is only required to have one member, so the claim that two members are needed for WRC meetings is inaccurate.	Accept: The proposed regulation provides that a committee quorum is one appointed member.
7/28/14 Michel & Associates	WRC meetings will be run by at least one of the WRC members or the designee	Accept in part: The proposed regulation provides that a quorum is one appointed member. Statute does not provide that a designee may run a WRC meeting (Section 106, Fish and Game Code).
<b>Non-committee Members' Participation in Committee Meetings</b>		
4/14/14 Michel & Associates	Three Commissioners should never participate in any WRC meeting.	Accept: The proposed regulation provides that no more than two Commissioners may attend a committee meeting.
7/14/14 Safari Club International	Non-committee Commissioners should resist the temptation of attending WRC meetings in any capacity.	Reject: The proposed regulation provides that no more than two Commissioners may attend a committee meeting.
7/28/14 Michel & Associates	Non-committee Commissioners may attend a WRC meeting but should be expressly prohibited from participating in anything other than an observational capacity. Non-member commissioners should not make any comment, either directly or indirectly, during a WRC meeting.	The prohibitions of the Bagley-Keene Open Meeting Act do not apply to the attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, provided that the members of the state body who are not members of the standing committee attend only as observers. (Section 11122.5 (c)(6), Government Code)

Source	Recommendation	Response
<b>Committee Recommendations</b>		
4/14/14 Michel & Associates	Because WRC is required to make recommendations, final decisions will need to be made, which could be problematic if there are two Commissioners sitting on the WRC (e.g., a tie). The regulations should address how any disputes between WRC members shall be resolved.	Reject: Committees are not decision making bodies. Marine Resources Committee (MRC) and WRC are required to make recommendations on matters before the Commission. In addition, the public has an opportunity per the Bagley-Keene Open Meeting Act to request that the Commission consider actions not recommended by a committee.
7/28/14 Michel & Associates	If WRC has two members, any finding or recommendation it makes must be unanimous.	Reject: Committees are not required to have agreement between the members and may forward to the Commission differing recommendations.
7/18/14 Bell, McAndrews & Hiltachk	If WRC members are to operate within their statutory authority as a strictly advisory body, the Commission must provide significant intervening substantive review for all recommendations made by the WRC, and must do so where the deliberations and determinations are open to the public – the Commission cannot simply rubberstamp a recommendation made by WRC. Furthermore, in considering recommendations from WRC, the Commission must adhere to the Administrative Procedure Act and Bagley-Keene Open Meeting Act.	Accept: The proposed regulation provides that the MRC and WRC may meet to make recommendations no later than 15 days prior to the Commission meeting at which the Commission may consider taking action on the subject of the recommendation; MRC and WRC recommendations shall be posted to the Commission website at least five days prior to the first day of the meeting; and the public may comment on an agenda item before any decision is made regarding the item.
9/24/15 Michel & Associates	Who decides (or what is the process for deciding) what actions WRC will take, i.e., whether a recommendation will be made to the full Commission?	Committees are not decision making bodies; MRC and WRC are required to make recommendations on matters before the Commission.
9/24/15 Michel & Associates	What happens if one Commissioner disagrees with a recommendation? Is there a record kept of that? Is the Commission or the public informed of the disagreement?	Committees are not required to have agreement between the appointed members and may forward to the Commission differing recommendations.  MRC and WRC meetings are currently audio-recorded and Commission meetings are audio- or video-recorded. Commission staff maintains Commission voting records.

<b>Source</b>	<b>Recommendation</b>	<b>Response</b>
9/24/15 Michel & Associates	What form does a recommendation take? Who prepared it?	<p>The proposed regulation provides that MRC and WRC may meet to make recommendations no later than 15 days prior to the Commission meeting at which the Commission may consider taking action on the subject of the recommendation; MRC and WRC recommendations shall be posted to the Commission website at least five days prior to the first day of the Commission meeting at which the recommendations will be considered.</p> <p>Recommendations are generally developed by Commission staff under direction of the committees.</p>
<b>Public Participation in Committee Meetings – Written Comments and Presentations</b>		
7/11/14 Michel & Associates	If the purpose of WRC is to have the most enlightened discussion possible...then stakeholders and the public should not be surprised by new information presented for the first time at WRC meetings when there is no opportunity to prepare a rebuttal. If the Executive Director receives a copy of presentation materials a few weeks prior to the WRC meeting, why can't that information be circulated publicly beforehand?	<p>Accept in Part: The proposed regulation provides that written comments received at least 13 days prior to the meeting may be posted to the Commission's website at the same time Commissioners receive them.</p> <p>All writings are made available to the public when distributed to all or a majority of Commissioners. It would be inappropriate for the public to receive information prior to the committee receiving it.</p> <p>Members of the public who plan to submit information at a meeting are not required to share that information prior to a meeting; the exception in this regulation is for audio or visual presentations, which must be submitted to the executive director by noon five days prior to the day of the meeting.</p>
7/11/14 Michel & Associates	If a deadline is applicable to all, it should be publicized.	Accept: The proposed regulation includes deadlines for receipt of written comments and audio/visual presentations.

<b>Source</b>	<b>Recommendation</b>	<b>Response</b>
7/14/14 Safari Club International	WRC must solicit proposed presentations for a meeting from the public generally, and not just from a limited group.	<p>Reject: The proposed regulation provides rules for submitting written comments and presentations on Commission and committee meeting agenda items, with no limitations on who may submit such materials. However, the Commission and committees may ask a certain individual(s) or group(s) to provide information relevant to an agenda item or to work together to develop a collaborative proposal; this would not preclude others from participating in Commission and committee processes.</p> <p>The proposed regulation also provides that members of the public may comment on an agenda item before any decision is made regarding the item.</p>
7/14/14 Safari Club International	WRC should require presentations to be submitted well in advance of the meeting and should share those presentation materials with the public to give the public the opportunity to prepare comments on those presentations.	Accept in Part: The proposed regulation includes a deadline of noon five days prior to the first day of a meeting for receipt of written comments and audio/visual presentations. All writings and presentations are available to the public when distributed to all, or a majority of all, committee members.
7/18/14 Bell, McAndrews & Hiltachk	All members of the public must be given the opportunity to comment and participate in WRC meetings.	Accept: The proposed regulation provides that Commission committees will comply with the Bagley-Keene Open Meeting Act and provides rules for written and verbal participation.

<b>Public Participation in Committee Meetings Should not Preclude Public Participation during Commission Meetings</b>		
7/11/14 Michel & Associates	Clarification is needed whether WRC is going to be the only opportunity for public comment on issues raised at WRC meetings, or if the public will have an opportunity to comment on all issues agendized for Commission meetings, even if that issue was already discussed (or not) at a WRC meeting.	Accept: The proposed regulation provides that the public may comment on an agenda item before any decision is made regarding the item.  The Bagley-Keene Open Meeting Act includes an allowance to not take testimony on items discussed in committee, but it is not included in the proposed regulation. (Section 11125.7, Government Code)
7/14/14 Safari Club International	Need to clarify how the Commission and WRC will work together and, in particular, whether a discussion on the WRC agenda will provide the only opportunity for the public to comment on matters that result in WRC recommendations to the Commission.	
7/28/14 Michel & Associates	The ability to speak at a WRC meeting on a particular item should not preclude a member of the public from attending a later Commission meeting and commenting on that item, or a related item, during the Commission meeting but prior to the Commission taking action.	
<b>Subcommittees</b>		
4/14/14 Michel & Associates	WRC needs rules to explain exactly how and when subcommittees will be formed.	Reject: If the Commission desires to move forward with this proposal, staff recommends doing so in a separate rulemaking.
7/28/14 Michel & Associates	WRC should not create any sub-committee or other entity without express approval by the full Commission after the Commission has taken public comment on the issue.	Reject: If the Commission desires to move forward with this proposal, staff recommends doing so in a separate rulemaking.
7/28/14 Michel & Associates	Any subcommittee or other entity created by WRC should only meet as part of a WRC meeting.	Reject: It is impracticable to have a regulation requiring that meetings of a subcommittee only take place as part of a committee meeting, which defeats the purpose of creating such a group.
7/28/14 Michel & Associates	All communications between members of any subcommittee or other entity created by WRC should be treated as public records.	Reject: The Public Records Act dictates the extent to which communications between members of any entity created by WRC are treated as public records.

9/25/15 Michel & Associates	What is the source of authority to create the Predator Working Group (PWG)? Assuming there is such authority, why is it not subject to the official rulemaking process? Would the Commission be able to create a workgroup itself without going through the formal rulemaking process?	Nothing prohibits a deliberative body from engaging the public to help it resolve issues before it. Nothing in the proposed regulations, or in practice, gives workgroups any authority; guidance and information provided by a workgroup is just that.  If the Commission determines it is appropriate to adopt a regulation regarding creation of a workgroup, staff recommends doing so in a separate rulemaking.
9/25/15 Michel & Associates	Who has authority to dictate the criteria or process for nominating PWG members? Are such nominations subject to the official rulemaking process?	The Commission publicly approved a proposal to establish a predator policy workgroup. It included criteria and a process for nominating members to the workgroup.
9/25/15 Michel & Associates	Assuming authority exists to establish the PWG, does such authority reside with the Commission or WRC?	WRC serves at the pleasure of the Commission and the Commission directs all work of the committees.
9/25/15 Michel & Associates	Will the public have an opportunity to weigh in on the criteria for nominating PWG members?	The public had an opportunity to provide comment at the August, 2015 meeting when the proposal was discussed.
<b>Minutes, Webcasting and Video Recording Committee Meetings</b>		
4/14/14 Michel & Associates	WRC meetings should be video-recorded and posted on the internet.	Reject: Though it may be desirable to video-record and/or webcast committee meetings, for the foreseeable future the Commission does not have the necessary resources, making a regulation impracticable. WRC meetings are currently audio-recorded and posted on the Commission website.  The Bagley-Keene Open Meeting Act does not require public meetings to be audio- or video-recorded or webcast.
7/28/14 Michel & Associates	WRC meetings should be audio-recorded. WRC meetings should be video recorded and broadcast on the internet unless the Commission makes a finding that as to a specific year, funding is not reasonably available for video recording.	
9/24/15 Michel & Associates	Are any meeting minutes or notes of proposed actions prepared? If so, by whom? Are any meeting minutes or notes kept? If so, are they made available?	MRC and WRC meetings are currently audio-recorded and the recordings are posted to the Commission website.

<b>Purpose/Function of Committee Meetings</b>		
7/11/14 Michel & Associates	If WRC meetings will provide for a longer format pre-discussion of a discussion that will take place again before the full Commission, then no binding action (other than perhaps a recommendation to the Commission action) takes place at a WRC meeting. If that is the case, then the Commission should say so unequivocally.	Reject: WRC is established by statute that does not authorize WRC to take binding action on behalf of the Commission.
7/14/14 Safari Club International	Asks for clarification regarding statements made that suggested WRC meetings can operate as official Commission meetings.	Reject: Membership and meetings of committees and the Commission are not interchangeable pursuant to the various requirements of the Bagley-Keene Open Meeting Act.
7/28/14 Michel & Associates	Unless specific situations dictate otherwise, WRC meetings should be structured to provide participants opportunities to engage in detailed discussions with Commission staff, Department staff, the presenter (if applicable), and stakeholders. WRC should strive to provide an informal setting at its meetings where all participants will have an opportunity to provide input into the conversation. However, if required, WRC should retain the option to apply a more structured setting.	Reject: It is not necessary to codify this in regulation. The proposed regulation requires sufficiently less structure and rules for committee meetings than Commission meetings to allow for greater flexibility and less formality.
9/24/15 Michel & Associates	Who decides the format of a WRC meeting?	The format of committee meetings is the discretion of the committee chairs.
<b>Miscellaneous WRC Procedures/Practices</b>		
4/14/14 Michel & Associates	Fish and Game Code Section 106 does not actually authorize or suggest WRC is to perform its own meetings; the Commission should explain to the public why the Commission is going beyond its statutory mandate.	Reject: It is not necessary to codify this in regulation. WRC is required to report from time to time on its activities and shall make recommendations on all non-marine resource matters before the Commission (Section 106, Fish and Game Code); the only logical mechanism for these to occur, per the Bagley-Keene Open Meeting Act, is through public meetings.

4/14/14 Michel & Associates	WRC is, to the extent practicable, to attend meetings of DFW staff, including meetings of DFW staff with interested parties, in which significant wildlife resource management documents are being developed. Are these meetings all going to be open to the public and publicly noticed? Is there going to be a public record of these meetings occurring?	Reject: The Bagley-Keene Open Meeting Act defines public meetings.
7/28/14 Michel & Associates	WRC should strive to adhere to an "equal time" model to the extent practicable, to prevent an unreasonable disparity of non-public WRC meetings being granted to specific parties holding disparate viewpoints.	Reject: This recommendation does not pertain to meeting procedures but to one-on-one meetings between a WRC member and a member of the public.
7/28/14 Michel & Associates	A log should be kept of all WRC-related meetings attended by WRC members or WRC-designee.	Reject: This recommendation is excessive. If questions arise about a specific meeting or document, members of the public have recourse through the Public Records Act.
9/29/15-10/21/15 T. Barton, W. Beck, J. Black, G. Booy, C. Boyer, J. Calabrese, R. Carr, M. Davis, R. Ensminger, T. Garcia, L. Gragg, R. Herniman, D. Hubbard, D. Jeffries, T & D Kuenzi, D. Littlefield, R. Long, macs10, S. Olmstead, C. Rizor, G. Sannar, B. Shaw, L. Simpson, D. Smith, C. Tarlow, S. Wolf	There should be established procedures for WRC.	Accept: The proposed regulations establish procedures for WRC.

**Communication Should be Made on Government-Issued Devices**

<p>6/5/15 Michel &amp; Associates</p>	<p>The Commission should mandate that all electronic correspondence concerning official Commission matters be conducted through government issued e-mail accounts that are stored on government owned servers or other electronic data storage mechanism.</p> <p>The use of personal email accounts for transmitting communications relating to any government business should be prohibited.</p> <p>The use of text messaging and other technologies that don't create a record should be prohibited or discouraged.</p>	<p>Reject: Inappropriate for meeting procedures. If the Commission desires to move forward with a regulation regarding communication methods, staff recommends doing so in a separate rulemaking.</p> <p>At its October 2015 meeting, FGC referred this recommendation to legal counsel for evaluation.</p>
<p>7/8/15 National Shooting Sports Foundation</p>	<p>The use of personal email, personal cell phones, or any other personal device used for sending or receiving official government communications or business should be strictly prohibited or highly discouraged.</p> <p>The Commission should require all business communications be conducted via government issued technology and stored on government servers/databases, etc.</p>	