

# **Fish and Game Commission Meeting Binder**



**July 17, 2018**

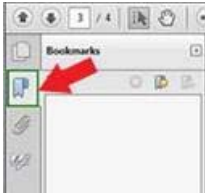
**Marine Resources Committee**

**Meeting**

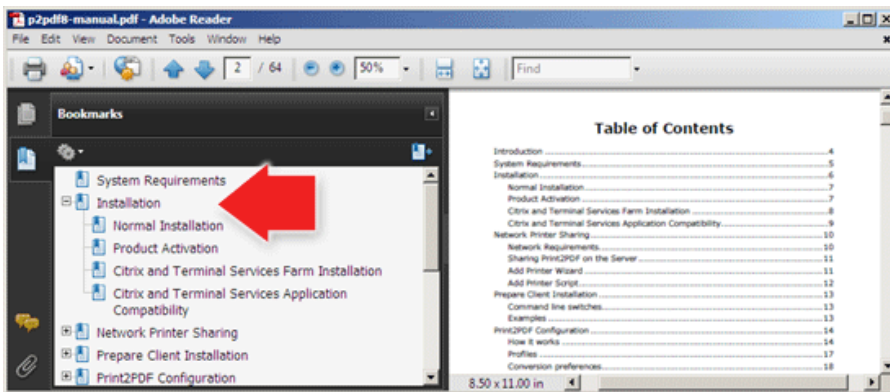
**San Clemente**

## EASY GUIDE TO USING THE BINDER

1. Download and open the binder document using your Adobe Acrobat program/app.
2. If a bookmark panel does not automatically appear on either the top or left side of the screen, click/tap on the “bookmark symbol” located near the top left-hand corner.



3. To make adjustments to the view, use the Page Display option in the View tab. You should see something like:



4. We suggest leaving open the bookmark panel to help you move efficiently among the staff summaries and numerous supporting documents in the binder. It’s helpful to think of these bookmarks as a table of contents that allows you to go to specific points in the binder without having to scroll through hundreds of pages.
5. You can resize the two panels by placing your cursor in the dark, vertical line located between the panels and using a long click /tap to move in either direction. ←|→
6. You may also adjust the sizing of the documents by adjusting the sizing preferences located on the Page Display icons found in the top toolbar or in the View tab.
7. Upon locating a staff summary for an agenda item, notice that you can obtain more information by clicking/tapping on any item underlined in blue.
8. Return to the staff summary by simply clicking/tapping on the item in the bookmark panel.
9. Do not hesitate to contact staff if you have any questions or would like assistance.

# INTRODUCTIONS FOR FISH AND GAME COMMISSION MARINE RESOURCES COMMITTEE

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## **FISH AND GAME COMMISSIONERS**

Eric Sklar                      Co-Chair (Saint Helena)  
Peter Silva                    Co-Chair (Jamul)

## **COMMISSION STAFF**

Valerie Termini              Executive Director  
Susan Ashcraft              Marine Advisor  
Leslie Hart                  Sea Grant Fellow  
Sergey Kinchak              Staff Services Analyst

## **DEPARTMENT OF FISH AND WILDLIFE**

Bob Puccinelli              Captain, Law Enforcement Division  
Dr. Craig Shuman            Regional Manager, Marine Region  
Randy Lovell                Statewide Aquaculture Coordinator  
Sonke Mastrup              Program Manager for Invertebrate Fisheries, Marine Region  
Tom Mason                  Senior Environmental Scientist, Supervisor, Marine Region  
Steve Wertz                 Senior Environmental Scientist, Supervisor, Marine Region  
Ryan Bartling                Environmental Scientist, Marine Region  
Dr. Julia Coates              Environmental Scientist, Marine Region

I would also like to acknowledge special guests who are present:  
*(i.e., key DFW staff, elected officials, tribal chairpersons, other special guests)*

\_\_\_\_\_

Ari Cornman, the new Commission Wildlife Advisor

\_\_\_\_\_

\_\_\_\_\_

# OVERVIEW OF FISH AND GAME COMMISSION COMMITTEE MEETING

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- Our goal today is informed discussion to guide future decision making, and, we need your cooperation to ensure a lively and comprehensive dialogue.
- We are operating under Bagley-Keene Open Meeting Act, but the Committee is not a decision making body and only makes recommendations to the full Commission for possible action.
- These proceedings may be recorded and posted to our website for reference and archival purposes.
- Items may be heard in any order pursuant to the determination of the Committee Co-Chairs.
- In the unlikely event of an emergency, please locate the nearest emergency exits.
- Restrooms are located \_\_\_\_\_.
- As a general rule, requests for regulatory change need to be redirected to the full Commission and submitted on the required petition form, FGC 1, titled “Petition to the California Fish and Game Commission for Regulation Change” (Section 662, Title 14, CCR). However, at the Committee’s discretion, the Committee may request that staff follow up on items of potential interest to the Committee and possible recommendation to the Commission.
- Committee meetings operate informally and provide opportunity for everyone to provide comment on agenda items. If you wish to speak on an agenda item, please follow these guidelines:
  1. Raise your hand and wait to be recognized by the Committee.
  2. Provide your name, affiliation (if any), and the number of people you represent.
  3. Time is limited; please keep your comments precise to give others time to speak.
  4. If several speakers have the same concerns, please appoint a group spokesperson.
  5. If you would like to present handouts or written materials to the Committee, please provide five copies to the designated staff member just prior to speaking.
  6. If speaking during public comment, the subject matter you present should not be related to any item on the current agenda (public comment on agenda items will be taken at the time the Committee members discuss that item).
- **Warning!** Laser pointers may only be used by a speaker doing a presentation.

**Commissioners**  
**Eric Sklar**, President  
Saint Helena

**Anthony C. Williams**, Vice President  
Huntington Beach

**Jacque Hostler-Carmesin**, Member  
McKinleyville

**Russell E. Burns**, Member  
Napa

**Peter S. Silva**, Member  
Jamul

STATE OF CALIFORNIA  
Edmund G. Brown Jr., Governor

**Valerie Termini, 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*

### MARINE RESOURCES COMMITTEE

Committee Co-chairs: President Sklar and Commissioner Silva

**Meeting Agenda**  
**July 17, 2018, 8:30 a.m.**

**California Department of Parks and Recreation**  
**Orange Coast District Office - Training Room**  
**3030 Avenida del Presidente, San Clemente, CA 92672**

This meeting may be audio-recorded

**NOTE: See important meeting procedures and information at the end of the agenda. Unless otherwise indicated, the California Department of Fish and Wildlife is identified as Department.** All agenda items are informational and/or discussion only. The Committee develops recommendations to the Commission but does not have authority to make policy or regulatory decisions on behalf of the Commission.

Call to order

**1. Approve agenda and order of items**

**2. Public comment for items not on the agenda**

The Committee may not discuss or take action on any matter raised during this item, except to consider whether to recommend that the matter be added to the agenda of a future meeting. [Sections 11125, 11125.7(a), Government Code]

**3. Staff and agency updates**

- (A) California Ocean Protection Council
- (B) Department
- (C) Other

**4. Pacific Herring Fishery Management Plan (FMP)**

Receive Department update on FMP development and consider possible Committee recommendation

5. **Shellfish aquaculture best management practices (BMPs)**  
Receive overview of public meeting outcomes and discuss next steps in developing a rulemaking to require BMP plans for state water bottom leases issued by the Commission for purposes of aquaculture
6. **California coastal fishing communities project**  
Receive staff update on coastal fishing communities meetings and initial recommendations
7. **Marine Life Management Act master plan**  
Discuss next steps for implementing the 2018 Marine Life Management Act Master Plan for Fisheries
8. **Box crab**  
Receive Department update regarding design of an experimental gear permit program and participation criteria
9. **Marine Protected Areas**  
Receive Department introduction to and overview of a draft statewide marine protected areas monitoring action plan
10. **Future agenda items**
  - (A) Review work plan agenda topics and timeline
  - (B) Potential new agenda topics for Commission consideration

Adjourn

**California Fish and Game Commission  
2018 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.**

<b>Meeting Date</b>	<b>Commission Meeting</b>	<b>Committee Meeting</b>	<b>Other Meetings</b>
August 22-23	River Lodge Conference Center 1800 Riverwalk Drive Fortuna, CA 95540		
September 20		<b>Wildlife Resources</b> Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814	
October 16		<b>Tribal</b> Radisson Fresno Conference Center 1055 Van Ness Avenue Fresno, CA 93721	
October 17-18	Radisson Fresno Conference Center 1055 Van Ness Avenue Fresno, CA 93721		
November 14		<b>Marine Resources</b> Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814	
December 12-13	QLN Conference Center 1938 Avenida del Oro Oceanside, CA 92056		

**OTHER 2018 MEETINGS OF INTEREST**

**Association of Fish and Wildlife Agencies**

- September 9-12, Tampa, FL

**Pacific Fishery Management Council**

- September 5-12, Seattle, WA
- November 1-8, San Diego, CA

**Pacific Flyway Council**

- September 28, Flagstaff, AZ

**Wildlife Conservation Board**

- August 30, Sacramento, CA
- November 15, Sacramento, CA



## **IMPORTANT COMMITTEE MEETING PROCEDURES INFORMATION**

Welcome to a meeting of the California Fish and Game Commission's Marine Resources Committee. The Committee is chaired by up to two Commissioners; these assignments are made by the Commission.

The goal of the Committee is to allow greater time to investigate issues before the Commission than would otherwise be possible. Committee meetings are less formal in nature and provide for additional access to the Commission. The Committee follows the noticing requirements of the Bagley-Keene Open Meeting Act. It is important to note that the Committee chairs cannot take action independent of the full Commission; instead, the chairs make recommendations to the full Commission at regularly scheduled meetings.

The Commission's goal is the preservation of our heritage and conservation of our natural resources through informed decision making; Committee meetings are vital in developing recommendations to help the Commission achieve 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.

### **SUBMITTING WRITTEN MATERIALS**

The public is encouraged to attend Committee meetings and engage in the discussion about items on the agenda; the public is also welcome to comment on agenda items in writing. You may submit your written comments by one of the following methods (only one is necessary): **Email** 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, 1416 Ninth Street, Room 1320, Sacramento, CA 95814; or **hand-deliver to a Committee meeting**.

### **COMMENT DEADLINES**

The **Written Comment Deadline** for this meeting is **5:00 p.m. on July 3, 2018**. 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 July 12, 2018**. 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 five (5) copies of written comments to the meeting.

The Committee **will not** consider comments regarding proposed changes to regulations that have been noticed by the Commission. If you wish to provide comment on a noticed item, please provide your comments during Commission business meetings, via email, or deliver to the commission office.

**Note:** Materials provided to the Committee may be made available to the general public.

### **REGULATION CHANGE PETITIONS**

As a general rule, requests for regulatory change need to be redirected to the full Commission and submitted on the required petition form, FGC 1, titled "Petition to the California Fish and Game Commission for Regulation Change" (Section 662, Title 14, CCR). However, at the Committee's discretion, the Committee may request that staff follow up on items of potential interest to the Committee and possible recommendation to the Commission.

### **SPEAKING AT THE MEETING**

Committee meetings operate informally and provide opportunity for everyone to comment on agenda items. If you wish to speak on an agenda item, please follow these guidelines:

1. Raise your hand and wait to be recognized by the Committee chair or co-chair(s).
2. Once recognized, please begin by giving your name and affiliation (if any) and the number of people you represent.
3. Time is limited; please keep your comments concise so that everyone has an opportunity to speak.
4. If there are several speakers with the same concerns, please try to appoint a spokesperson and avoid repetitive comments.
5. If you would like to present handouts or written materials to the Committee, please provide five copies to the designated staff member just prior to speaking.
6. If speaking during public forum, the subject matter you present should not be related to any item on the current agenda (public comment on agenda items will be taken at the time the Committee members discuss that item). As a general rule, public forum is an opportunity to bring matters to the attention of the Committee, but you may also do so via email or standard mail. At the discretion of the Committee, staff may be requested to follow up on the subject you raise.

### **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 by the written materials deadline.
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.

**LASER POINTERS** may only be used by a speaker during a presentation.

## COMMITTEE STAFF SUMMARY FOR JULY 17, 2018

**2. PUBLIC COMMENT****Today's Item****Information** **Direction** 

Receive public comments for items not on the agenda.

**Summary of Previous/Future Actions (N/A)****Background**

The Committee generally receives two types of correspondence or comment under public forum: Requests for MRC to consider new topics, and informational items. As a general rule, requests for a regulation change need to be directed to FGC and submitted on the required petition form, FGC 1, *Petition to the California Fish and Game Commission for Regulation Change* (Section 662, Title 14, CCR). However, at the discretion of the Committee, staff may be requested to follow up on items of potential interest to the Committee and possible recommendation to FGC.

**Significant Public Comments (N/A)****Recommendation**

If the Committee wants to recommend any new future agenda items based on issues raised and within FGC's authority, staff recommends holding for discussion under today's Agenda Item 10, *Future Committee agenda topics*.

**Exhibits (N/A)****Committee Direction/Recommendation (N/A)**

## COMMITTEE STAFF SUMMARY FOR JULY 17, 2018

**3. STAFF AND AGENCY UPDATES****Today's Item**Information Direction 

Receive updates from agency staff, including the California Ocean Protection Council (OPC) and DFW.

**Summary of Previous/Future Actions (N/A)****Background**

This is a standing item for DFW and other government agencies to provide an update on marine-related activities of interest. FGC staff may also provide an update.

- (A) *OPC*: Tova Handelman, Marine Protected Area Program Manager, will provide an update on OPC activities, specifically related to once-through cooling (OTC) mitigation funds and an upcoming grant funding opportunity for projects that benefit state marine protected areas (MPAs) (Exhibit A1). OPC runs an OTC Interim Mitigation Program to direct investment of mitigation payments made by power plants not yet in compliance with the state OTC phase-out policy, to mitigate impacts of OTC on state MPAs.
- (B) *DFW*
  - I. Marine Region: Dr. Craig Shuman, Regional Manager, will provide an update.
  - II. Law Enforcement Division: Captain Bob Puccinelli will provide a marine enforcement update.
- (C) *Other*: This is a placeholder for possible additional agency and FGC staff updates.

**Significant Public Comments (N/A)****Recommendation (N/A)****Exhibits**

- A.1 OPC overview of OTC Interim Mitigation Program and funding opportunities, received Jul 5, 2018

**Committee Direction/Recommendation (N/A)**

## COMMITTEE STAFF SUMMARY FOR JULY 17, 2018

**4. HERRING FISHERY MANAGEMENT PLAN****Today's Item**Information Direction 

Receive update on draft Pacific herring fishery management plan (FMP) and consider possible committee recommendation.

**Summary of Previous/Future Actions**

- |   |  |
|---|--|
| • DFW updates on FMP progress                       | 2016-2017; MRC meetings                |
| • Most recent update on FMP progress                | Mar 6, 2018; MRC, Santa Rosa           |
| • <b>Today's update and possible recommendation</b> | <b>Jul 17, 2018; MRC, San Clemente</b> |

**Background**

In 2016, FGC and DFW identified Pacific herring as a priority fishery for developing an FMP under the Marine Life Management Act, an effort that is nearing completion. Pacific herring, an important forage species in California and along the West Coast, is harvested commercially as a roe fishery. The fishery is managed through FGC regulations (Section 163, Title 14) by establishing fishing quotas based on herring spawning population size estimates from DFW surveys.

The goals of the herring FMP are to establish a new harvest control rule, integrate ecosystem considerations, overhaul the existing commercial limited entry permit system and related fishing regulations, as well as develop regulations for the recreational herring fishery.

A collaborative working group of herring fleet leaders, staff from conservation non-governmental organizations, and DFW staff has functioned as a steering committee throughout FMP development; since 2016, DFW staff, the FMP project manager, and steering committee members have provided MRC with regular updates on progress.

In Mar 2018, the FMP project manager presented a detailed update on development, scope, and timing of an FMP for Pacific herring; this included a new predictive model developed for San Francisco Bay populations, the proposed management strategy, new ecosystem analysis and collaborative research protocols, and proposed regulatory changes, including addition of a recreational take limit. MRC also discussed a request from some commercial fishermen to authorize a new commercial gear type (cast nets) for purposes of a small-scale, fresh fish market. Based on discussion, DFW agreed to add a provision within the FMP that could allow for future gear type authorizations through subsequent rulemaking.

Today, DFW will present a refined scope of proposed fishery regulation and permitting requirements, and an update on timing for FGC receipt of the draft FMP and proposed implementing regulations following peer review. This is an opportunity for MRC to clarify any details of the plan and consider a recommendation to move the FMP process forward for FGC consideration.

## COMMITTEE STAFF SUMMARY FOR JULY 17, 2018

**Significant Public Comments**

Previously, recreational fishermen that target herring in San Francisco Bay provided comments about the DFW-proposed new recreational daily limit of 50 pounds. The majority of fishermen indicated the proposed limit is too little, based on the ephemeral nature of herring spawning events close enough to shore to access them and their practice of collecting sufficient volume for use and freezing for the coming year. Most suggest a limit of two, 5-gallon buckets, which amounts to approximately 100 pounds but doesn't require a scale (see Exhibit 2).

**Recommendation**

**FGC staff:** (1) Support DFW recommendations for the proposed FMP and implementing regulations, except provide direction for recreational take limits in the proposed regulation, which could be reflected as a range for later FGC selection; and (2) approve the updated schedule for FGC action as recommended by DFW.

**DFW:** Revise the FMP and rulemaking schedule as presented (Exhibit 1).

**Exhibits**

1. DFW presentation
2. Emails from Krishna Dole, John Vogel, Pinghua Xiong, Josiah Clark, Andrew Bland, Alastair Bland, Mark Lockaby and Nathan Lee, received Mar 5, 2018

**Committee Direction/Recommendation**

The Marine Resources Committee recommends that the Commission endorse the CDFW-identified recommendations for the Pacific herring fishery management plan and implementing regulations, and update the FMP and rulemaking schedule as proposed by CDFW.

OR

The Marine Resources Committee recommends that the Commission endorse the CDFW-identified recommendations for the Pacific herring fishery management plan and implementing regulations, except to also specify a proposed recreational take limit of [amount or range], and update the FMP and rulemaking schedule as proposed by CDFW.

## COMMITTEE STAFF SUMMARY FOR JULY 17, 2018

**5. SHELLFISH AQUACULTURE BEST MANAGEMENT PRACTICES****Today's Item**Information Direction 

Receive overview of public meeting outcomes and discuss next steps in developing a rulemaking to require best management practices (BMPs) plans for state water bottom leases issued by FGC for purposes of aquaculture.

**Summary of Previous/Future Actions**

- |  |  |
|--|--|
| • FGC discussed possible BMPs              | Feb 10-11, 2016; FGC, Sacramento       |
| • FGC supported BMPs rulemaking approach   | Jun 22-23, 2016; FGC, Bakersfield      |
| • MRC discussed aquaculture debris         | Jul 21, 2016; MRC, Petaluma            |
| • MRC update on BMPs development           | Jul 20, 2017; MRC, Santa Rosa          |
| • Last update on BMPs development          | Mar 6, 2018; MRC, Santa Rosa           |
| • <b>Today's update on BMPs rulemaking</b> | <b>Jul 17, 2018; MRC, San Clemente</b> |

**Background**

FGC has the authority to lease state water bottoms to any person for the purpose of conducting aquaculture in marine waters of the state, with the exception of Humboldt Bay, under terms agreed upon between FGC and the lessee (Sections 15400 and 15405, California Fish and Game Code). While general regulations in Section 237 govern all aquaculture leases, terms are established for individual state water bottom lease areas in a lease agreement.

Statewide there are currently 17 active FGC-issued state water bottom aquaculture leases with 10 companies. In recent years, public attention has focused on shellfish aquaculture practices and stewardship on certain aquaculture leases, particularly related to marine debris. In 2016, FGC approved a staff recommendation to address the concerns through a rulemaking that would require an FGC-approved shellfish aquaculture BMPs plan for each lease. The regulation would identify what must be addressed in a shellfish aquaculture BMPs plan in order to obtain FGC approval to engage in shellfish aquaculture activities on a state water bottom lease issued by FGC.

MRC had discussions in Jul 2016 and Jul 2017 (see Exhibit 1, part A, for more background), including a report of outcomes from a BMPs public meeting held near Tomales Bay in Jul 2017 (Exhibit 2). At that time, DFW anticipated holding a second public meeting in the southern portion of the state. In Mar 2018, MRC received a more detailed DFW presentation on the status of current State aquaculture leases, the broad scope of current management activities requiring focus in addition to BMPs planning—including compliance efforts and future planning—and a request for prioritization. Several public comments urged DFW to resume focus on developing BMPs requirements and holding the southern public meeting as soon as possible. MRC recommended, and FGC approved, that statewide information-gathering and public engagement efforts to define BMPs plan requirements be prioritized for completion, and requested an update at the next MRC meeting.

## COMMITTEE STAFF SUMMARY FOR JULY 17, 2018

In response, DFW and FGC staff jointly held a second public meeting on May 29, 2018, in Santa Barbara (see meeting summary in Exhibit 3), which brought together a broad spectrum of aquaculture and fishing industry members, researchers, and agency representatives. Today, DFW and FGC staff will report on outcomes from the public meeting, present initial BMPs categories derived from public meetings and from research, and discuss next steps in developing draft regulation language for public and MRC review.

**Significant Public Comments**

One commenter recommends requiring copies of other agency aquaculture permits and requirements associated with the leased aquaculture site in BMPs plans for ease of reference (Exhibit 4).

One commenter expressed support for adopting BMPs identified on the “coastodian dot org” website (previously submitted to MRC), and supports enforcement of BMPs and laws governing aquaculture practices (Exhibit 5).

**Recommendation**

**FGC staff:** Support DFW and FGC staff drafting proposed requirements for issues to address in BMPs plans for state water bottom leases based on the concepts presented by staff, providing opportunity for public review of the draft proposal, and scheduling for MRC review and possible recommendation in Nov 2018.

**Exhibits**

1. Staff summary from Jul 20, 2017 MRC meeting (for background purposes)
2. Summary of BMPs public meeting held in Marshall on Jul 17, 2017
3. Summary of BMPs public meeting held in Santa Barbara on May 29, 2018
4. Email from Bob Johnston, received Apr 1, 2018
5. Email from Don S., received Mar 31, 2018

**Committee Direction/Recommendation**

MRC recommends that FGC support staff drafting proposed requirements for issues to address within BMPs plans for state water bottom leases based on the concepts presented by staff, providing opportunity for public review of the draft proposal, and scheduling for MRC review and possible recommendation in November 2018.



## COMMITTEE STAFF SUMMARY FOR JULY 17, 2018

**6. COASTAL FISHING COMMUNITIES PROJECT****Today's Item**Information Direction 

Receive staff update on California coastal fishing communities project and initial options for potential action.

**Summary of Previous/Future Actions**

- |  |  |
|--|--|
| • FGC refers topic to MRC                        | Feb 11, 2015; Sacramento               |
| • MRC discussions, planning, and public meetings | 2015 - 2017; various                   |
| • Most recent MRC update                         | Mar 6, 2018; MRC, Santa Rosa           |
| • <b>Today's update and initial options</b>      | <b>Jul 17, 2018; MRC, San Clemente</b> |

**Background**

In early 2015, at the direction of FGC, an MRC discussion involving fishing communities was initiated following a public request for new fishery access opportunities to support north coast harbors (see Exhibit 1 for background). Following exploratory discussions with MRC and the public in 2015 and 2016 regarding challenges and needs within California's coastal fishing communities, FGC approved an MRC recommendation to broaden the conversation coastwide through a series of locally-focused coastal fishing community meetings along the California coast.

A total of seven locally-focused coastal fishing community meetings were held in 2017 and 2018 spread along the coast from Crescent City to San Diego (see locations map in Exhibit 2). The meetings offered a venue to more thoroughly explore, from the perspective of specific fishing-dependent coastal communities, current conditions and changes being experienced in ports, constraints on adaptation, and needs for creating future resilience. Information collected from the people who represent the concerns of their communities is helping FGC explore how it can, within its mandate and authority, better consider their priorities within fisheries management decisions, and potentially contribute to fostering stability and long-term well-being in California's diverse coastal fishing communities.

Since the final two community meetings were held in June 2018, staff has reviewed and synthesized input from the various meetings to identify common themes, port-specific issues, and ideas to support discussion today (Exhibit 3). Included in the staff synthesis are fishing port profiles created for several of the port locations. The coastal meetings have provided sufficient information to develop a range of options for potential FGC focus and action in response to community concerns.

Today, staff will highlight ideas generated from the public meetings for possible action that could be considered by FGC to support coastal fishing communities. For example, a recurring theme was constraints and opportunities in restricted access around which commercial fisheries have been designed. Restricted access, defined in Fish and Game Code Section 99, is applied by FGC within California's fisheries through its Restricted Access Commercial Fisheries Policy; one idea for potential FGC consideration is to revisit that policy and determine

## COMMITTEE STAFF SUMMARY FOR JULY 17, 2018

if it can be modified to create more flexibility. The policy is provided in Exhibit 4 as background for possible discussion with MRC.

**Significant Public Comments (N/A)****Recommendation**

**FGC staff:** (1) Consider initial fishing community ideas and options for potential actions presented by staff today, (2) identify any additional ideas or options, and (3) provide an opportunity for public review and input to help gauge support before MRC advances recommendations to FGC.

**Exhibits**

1. Staff summary from Nov 4, 2015 MRC meeting (for background purposes only)
2. Map of coastal fishing community public meeting locations
3. Staff synthesis of 2017-2018 coastal community meetings, with select regional fisheries snapshots (*to be distributed by or at the meeting*)
4. FGC's Restricted Access Commercial Fisheries Policy, adopted June 1999

**Committee Direction/Recommendation**

The Marine Resources Committee recommends that staff take the following next steps based on fishing community meeting outcomes: \_\_\_\_\_.

## COMMITTEE STAFF SUMMARY FOR JULY 17, 2018

**7. MARINE LIFE MANAGEMENT ACT MASTER PLAN****Today's Item**Information Direction 

Discuss next steps for implementing the 2018 Marine Life Management Act (MLMA) Master Plan for Fisheries

**Summary of Previous/Future Actions**

- FGC adopted 2018 master plan Jun 20-21, 2018; Sacramento
- **Today's update on implementation Jul 17, 2018; MRC, San Clemente**

**Background**

The Marine Life Management Act (MLMA) of 1998 directed DFW to submit to FGC for approval a master plan that specifies the process and resources needed to prepare, adopt, and implement fishery management plans (FMPs) for sport and commercial marine fisheries managed by the State, with input from fisheries participants, marine conservationists, scientists, and other interested parties (Fish and Game Code Section 7073). Pursuant to the MLMA requirement, in 2001 FGC adopted *The Master Plan: A Guide for the Development of Fishery Management Plans* (Master Plan), developed by DFW with stakeholder input.

After over 15 years of MLMA implementation founded on Master Plan guidance, and a three-year DFW effort to review the plan and new implementation tools, in Jun 2018 FGC adopted an updated *2018 Master Plan for Fisheries: A Guide for Implementation of the Marine Life Management Act* (2018 Master Plan) (available at <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=159019&inline>).

Based on public comments and discussion recognizing the importance of 2018 Master Plan implementation planning and transparency, FGC referred this as a topic to MRC and requested it become a standing agenda item. The standing item is provided to discuss implementation steps, priorities, and opportunities associated with the 2018 Master Plan, and receive regular DFW updates. Today is the first discussion of implementation since adoption.

**Significant Public Comments**

Comments (submitted for the Jun 2018 FGC meeting) from environmental non-governmental organizations emphasized the importance of implementing the 2018 Master Plan, as each step affects the effectiveness and success of the entire plan as envisioned. The steps include updating the interim priority list for FMP development, and employing new tools in the 2018 Master Plan. One commenter requested that FGC encourage DFW to use external partnerships for 2018 Master Plan implementation and leverage the capacity of third parties such as universities, non-governmental organizations, and industry groups.

**Recommendation (N/A)****Exhibits (N/A)****Committee Direction/Recommendation (N/A)**

## COMMITTEE STAFF SUMMARY FOR JULY 17, 2018

**8. BOX CRAB****Today's Item**Information Direction 

Receive DFW update regarding design of an experimental gear permit (EGP) program and participation criteria for brown box crab in commercial trap fisheries.

**Summary of Previous/Future Actions**

- |  |  |
|--|--|
| • Discussion of box and king crab landings increase                          | Nov 9, 2017; MRC, Marina               |
| • FGC approved MRC recommendation for incidental take limits and EGP program | Dec 6-7, 2017; San Diego               |
| • Notice hearing for incidental take limits                                  | Jun 20-21, 2018; Sacramento            |
| • <b>Today's update on EGP program</b>                                       | <b>Jul 17, 2018; MRC, San Clemente</b> |
| • Proposed EGP criteria to FGC   | Oct 17-18, 2018; Fortuna               |
| • FGC approval of EGP applications   | Dec 12-13, 2018; Oceanside             |

**Background**

In 2017, DFW notified FGC of a rapid increase in landings of box crab and California king crab from different gear types in response to developing market demands. While California Fish and Game Code specifically authorizes incidental take of several marine invertebrates incidental to other target fisheries—such as in the rock crab trap fishery, where incidental take of Kellet's whelk, octopus, and crabs other than of the genus *Cancer* is allowed—no limit on the amount of take is specified (Section 8284).

In addition, several fishermen contacted FGC with requests to authorize targeting these species, either through a regulation change, or through an experimental fishery via EGPs. In Aug 2017, FGC referred the requests to DFW and MRC for review.

Based on presentations and discussion at the Nov 2017 MRC meeting, MRC recommended, and FGC approved, a two-pronged approach in response to the biological concerns and industry interest for DFW to (1) develop a rulemaking to set incidental take commercial trip limits for *Lithodidate* crabs (including box crab and California king crab), and for all other all other non-*Cancer* crab species (except Tanner crab); and (2) develop an EGP-based collaborative research program and design participation criteria for consideration at a future MRC meeting.

Today's meeting provides follow-up on DFW development of the EGP research program, including efforts and progress to date in project design and a highlight of areas still being explored. Following MRC discussion today, DFW will refine the proposed EGP program scope and participation criteria, and requests to present the proposed approach to FGC in Oct 2018 and initiate the application phase. FGC approval of EGP applications is requested for Dec 2018.

**Significant Public Comments (N/A)**

COMMITTEE STAFF SUMMARY FOR JULY 17, 2018

**Recommendation**

**FGC staff:** Clarify details of qualifying criteria, and support timeline for FGC consideration as proposed by DFW.

**DFW:** Schedule (1) overview of proposed research plan and EGP participation criteria for the Oct 2018 FGC meeting and (2) approval of EGP applications at the Dec 2018 FGC meeting.

**Exhibits (N/A)**

**Committee Direction/Recommendation**

The Marine Resources Committee recommends that the Commission approve the DFW request to schedule an overview of the proposed research plan and EGP participation criteria for Oct 2018, and approval of EGP applications for Dec 2018.

## COMMITTEE STAFF SUMMARY FOR JULY 17, 2018

**9. MARINE PROTECTED AREAS MONITORING****Today's Item**Information Direction 

Receive DFW introduction to and overview of a draft statewide marine protected areas (MPA) monitoring action plan.

**Summary of Previous/Future Actions**

- **Today's discussion** **Jul 17, 2018; MRC, San Clemente**
- DFW overview of monitoring action plan Aug 23-24, 2018; FGC, Fortuna
- FGC receipt and approval of monitoring action plan Oct 17-18, 2018; FGC, Fresno

**Background**

The Marine Life Protection Act (MLPA) requires provisions for “monitoring, research, and evaluation at selected sites to facilitate adaptive management of MPAs and ensure that the [MPA] system meets the goals” [sections 2853(c)(3) and 2856(a)(2)(H), California Fish and Game Code]. FGC adopted guidance for monitoring, research and evaluation in the 2008 master plan for MPAs, which emphasized a regional scale for baseline monitoring efforts and monitoring plans for each of four planning regions. However, the 2016 master plan recognizes that a statewide-level MPA network monitoring plan would be biologically appropriate and consistent with the MLPA goal to manage as a network moving forward. The 2016 master plan led to the design of a statewide MPA monitoring program, which includes and draws from regional monitoring components to gather sufficient information to evaluate network efficacy and inform 10-year MPA management reviews (see Chapter 4 of the 2016 master plan, Exhibit 1).

DFW collaborated closely with the California Ocean Protection Council and academic partners to draft a *Statewide Marine Protected Area Monitoring Action Plan* (Action Plan) for the monitoring program. The draft Action Plan is intended to inform next steps for long-term MPA monitoring in California by tying together MPA monitoring, research and evaluation concepts and priorities across statewide and regional scales, aggregating and synthesizing work to date, and incorporating novel, quantitative, and expert-informed scientific approaches that are currently emerging. The Action Plan prioritizes metrics, habitats, sites, and species to target for long-term monitoring and its funding in order to inform the evaluation of California's MPA network.

Today, DFW will provide an introduction and overview of the draft Action Plan, which would serve as a living document that can be updated as needed to ensure the latest understanding of MPA network performance evaluation is reflected in the priorities of the MPA monitoring program. FGC is scheduled to receive the draft Action Plan in Aug 2018 and to approve the plan in Oct 2018.

**Significant Public Comments (N/A)****Recommendation (N/A)****Exhibits**

1. 2016 master plan: <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=133535&inline>

**Committee Direction/Recommendation (N/A)**

## COMMITTEE STAFF SUMMARY FOR JULY 17, 2018

**10. FUTURE AGENDA ITEMS****Today's Item**Information Direction 

Review upcoming agenda items scheduled for the next and future MRC meetings, hear requests from DFW and interested stakeholders for future agenda items, and identify new items for consideration.

**Summary of Previous/Future Actions**

- FGC approved MRC recommendations Apr 18-19, 2018; Ventura
- **Today's discussion** **Jul 17, 2018; MRC, San Clemente**
- Next meeting Nov 14, 2018; MRC, Sacramento

**Background**

Committee topics are referred by FGC and scheduled as appropriate. FGC-referred topics and the current schedule are shown in Exhibit 1. MRC agendas currently include several complex and time-intensive topics under development. The committee has placed emphasis on issues of imminent regulatory or management importance, and thus consideration of new topics will require planning relative to existing committee workload.

***MRC Work Plan and Timeline***

Agenda topics identified for the Nov 2018 MRC meeting include:

1. Agency updates
2. Aquaculture leases
  - a. Best management practices regulations
  - b. Update on current management efforts and future planning
3. California's coastal fishing communities project (if approved)

***Discuss and Recommend New MRC Topics***

Today provides an opportunity to confirm timing for any additional referred topics, and to identify any potential new agenda topics to recommend to FGC for referral to MRC.

**Significant Public Comments (N/A)****Recommendation**

**FGC staff:** Review MRC schedule (Exhibit 1) and current rulemaking timetable (Exhibit 2), consider updates to project scheduling, and consider any potential new topics to recommend for FGC referral to MRC for evaluation.

**Exhibits**

1. MRC 2018 work plan, dated Jul 5, 2018
2. *Perpetual Timetable for California Fish and Game Commission Anticipated Regulatory Actions*, dated Jul 11, 2018

**Committee Direction/Recommendation (N/A)**





## Ocean Protection Council (OPC) Update

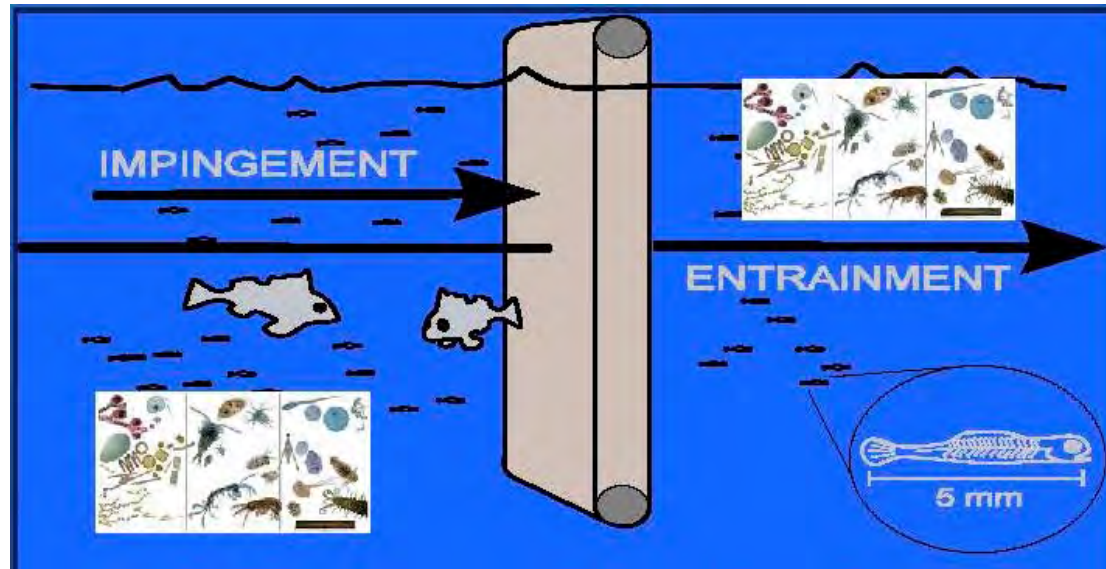
Tova Handelman, Marine Protected Area Program Manager

Fish and Game Commission Marine Resources Committee Meeting

July 17, 2018

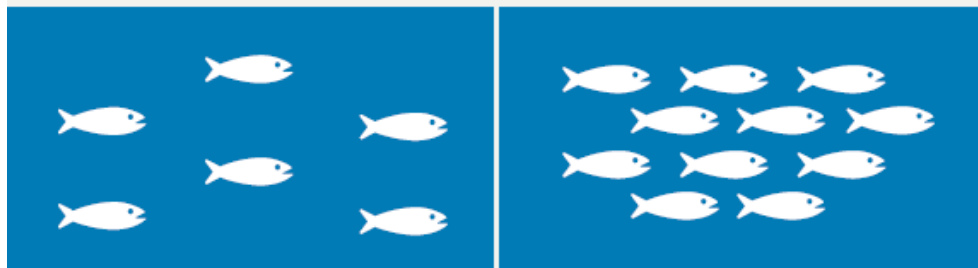


# Once-Through Cooling Impacts



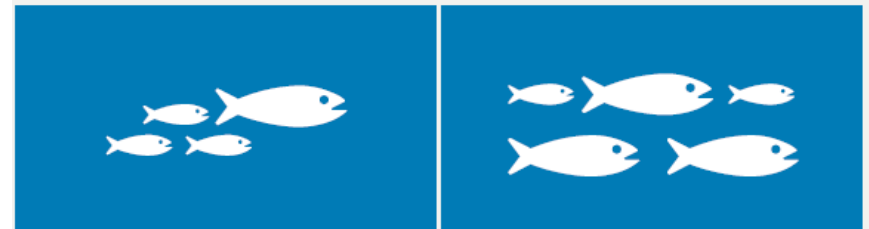
## HIGHER DENSITY = MORE SEA LIFE

Density is the total number of organisms in a given area.



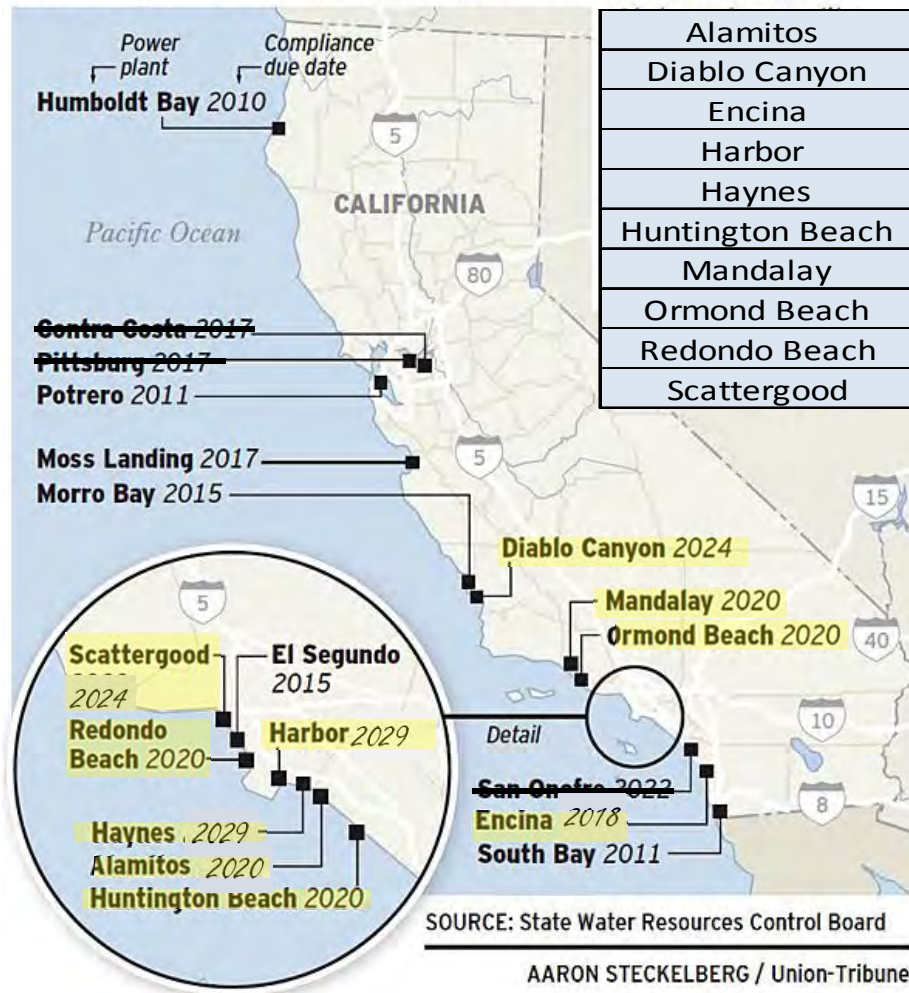
## INCREASES IN BIOMASS = BIGGER AND MORE ABUNDANT SEA LIFE

Biomass is the total weight of organisms in a given area, in terms of both size *and* number of organisms.



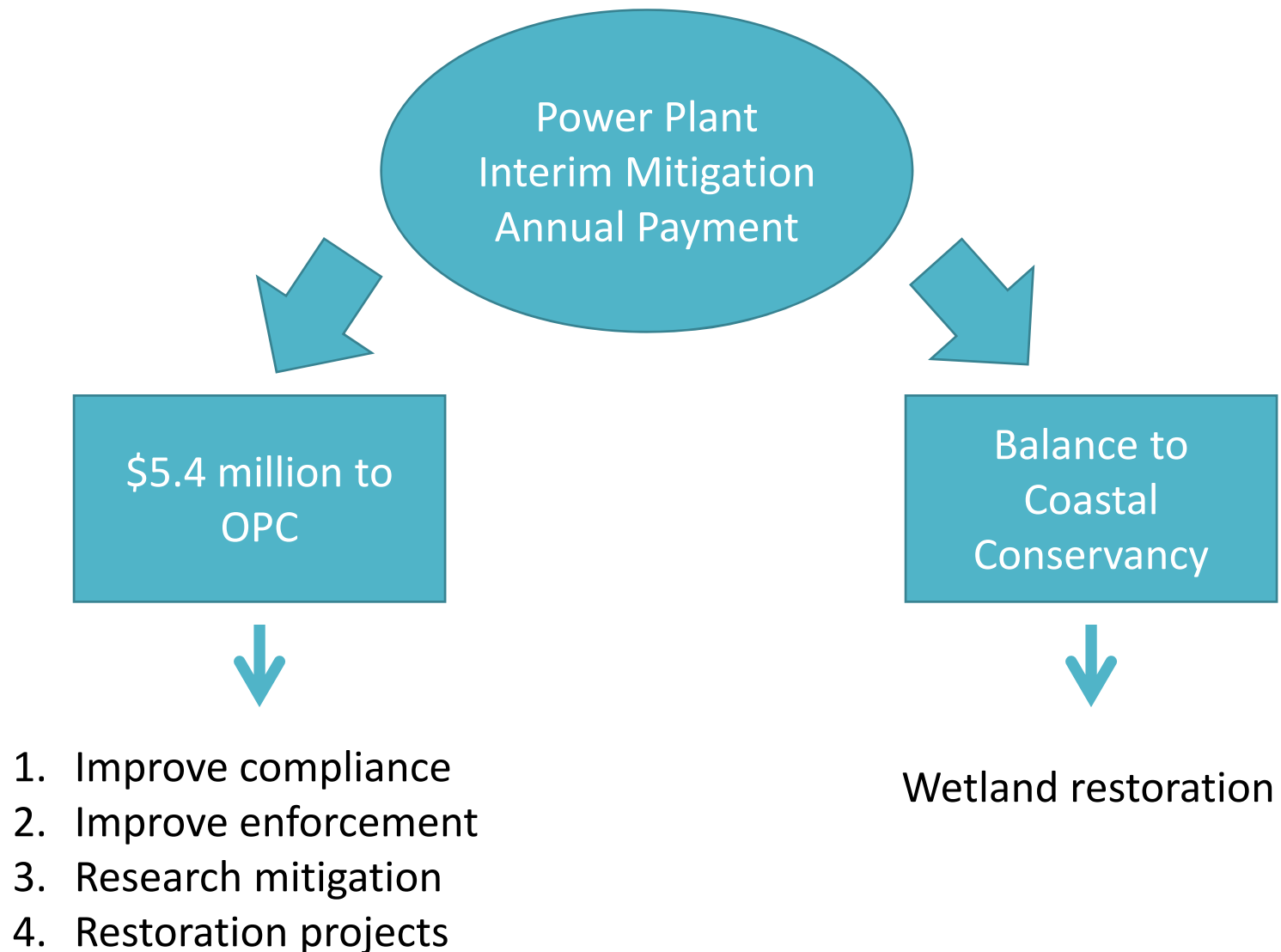
# Once-Through Cooling (OTC) Policy

## ONCE-THROUGH COOLING POWER PLANTS IN CALIFORNIA



- State Water Resources Control Board’s OTC Policy directs the fees to support **“mitigation projects directed toward increases in marine life associated with the State’s Marine Protected Areas in the geographic region of the facility.”**
- **“...each year 5.4 million dollars (\$5,400,000) of the Funds shall be provided to the OPC for mitigation of impacts to the State Marine Protected Areas”**

# Annual Payment Allocation





# OTC Interim Mitigation Program Project Components

1. Outreach and education to improve compliance
2. Enforcement of marine protected area (MPA) rules and regulations statewide
3. Research to understand how existing MPAs may be mitigating for OTC impacts
4. Restoration that increases marine life in the geographic region of the facility



# Next Steps OTC Interim Mitigation Program

Expert science  
panel report  
July 9

Public comment  
on grant  
guidelines  
Aug 13 – Sep 14

Ocean  
Protection  
Council  
consideration of  
guidelines  
Oct 25

Call for  
proposals  
(pending OPC  
approval)  
Oct 26

California Ocean Protection Council

**OPC-SAT**  
Science Advisory Team



# Summary of OTC Program

1. Ensuring MPAs have the greatest chance to accrue their maximum range of ecological benefits
2. Funding restoration projects that are scientifically proven to increase marine wildlife
3. Identifying opportunities to improve enforcement and compliance







Questions?

[Tova.Handelman@resources.ca.gov](mailto:Tova.Handelman@resources.ca.gov)

# Pacific Herring Fishery Management Plan Update

Marine Resources Committee Meeting  
San Clemente - July 17, 2018



Ryan Bartling – Environmental Scientist  
Marine Region  
CA Department of Fish and Wildlife



# FMP Development Overview

- Discussion Group → Steering Committee (2016)
- Outside funding
- Contractor based
  - Science Support – Drafting
- Steering committee advisory role
- Peer review through Ocean Science Trust








# Pacific Herring FMP Goals

- **Develop a Harvest Control Rule (SF Bay)**
- **Ecosystem considerations**
- **Modernize limited entry permit system**
- **Develop collaborative research**
- **Update existing commercial regulations**
- **Develop recreational fishing regulations**



# Harvest Control Rule

-  **Precautionary limit (cut-off)**
-  **Provides stable quota**
-  **Conservative harvest rates (5-10%)**
-  **Incorporates environmental indicators**
-  **Predicative model management tool**



# Collaborative Research

## Primarily Northern Fishing Areas

-  **Develop tiered monitoring approach**
-  **Collect essential fishery information (EFI) required for stock status**
-  **Data collection levels tied to quota**
-  **Build on existing relationships**
-  **Identify new partnership opportunities**





# Regulations and Permitting

- **Permit consolidation**
- **Fleet capacity goals**
- **Simplify regulatory language**
- **Set uniform season dates**
- **Develop recreational bag limits**
- **Provide for alternative gears (innovation)**



# FMP Timeline 2018-19

- **Drafting ~ June 2018**
- **Peer Review ~ Sept 2018**
- **CEQA Scoping ~ August 2018**
- **Notice Hearing ~ Dec 2018**
- **FMP Adoption ~ April 2019**
- **Regulation Adoption ~ June 2019**



# Updates and Information:

## CDFW Herring Web Page

[wildlife.ca.gov/Fishing/Commercial/Herring](http://wildlife.ca.gov/Fishing/Commercial/Herring)

## Herring “Blog”

[cdfwherring.wordpress.com](http://cdfwherring.wordpress.com)

**Ryan Bartling**

**Environmental Scientist**

**[Ryan.Bartling@wildlife.ca.gov](mailto:Ryan.Bartling@wildlife.ca.gov)**

**(707) 576-2877**



**From:** Krishna Dole  
**Sent:** Monday, March 05, 2018 11:07 AM  
**To:** FGC <FGC@fgc.ca.gov>  
**Subject:** Public comment on herring fishery management plan

Dear FGC,

I am writing to comment on recreational limits for our herring fishery.

I followed the herring spawns fairly closely this season, but still only had a single chance to catch fish. I am one of the anglers for whom a daily bag limit would have been a *de facto* annual limit.

If a daily bag limit of 50 lbs is set, that would be quite a small annual harvest. By way of comparison, I caught about 140 lbs of Chinook salmon while fishing from my kayak in the ocean this past season. Salmon are under very restrictive management, while the herring population does not currently appear to be constrained by human harvest.

I think a daily bag limit of two 5-gallon buckets would be a fair compromise.

I am also concerned that DFW will require all herring anglers to carry a scale. The thought that anglers who are complying with bag limits could be fined many hundreds of dollars because they forgot to bring a scale does not sit well with me. Hopefully you will consider this when formulating regulations.

Kind regards,

Krishna Dole

**From:** John Vogel **Sent:** Monday, March 05, 2018 10:52 AM  
**To:** FGC <FGC@fgc.ca.gov>  
**Subject:** recreational herring limits

Dear FGC,

I am writing to express my opposition to the proposed 50-pound daily limit for the recreational herring fishery. I am a kayak-fisherman and also enjoy catching herring in the winter months.

Due to the unpredictable nature of herring spawning events, one catch might be all the herring a recreational fisherman catches in an entire season. In that light, a 50 lb limit seems too restrictive.

Herring freezes well, and can be eaten many months after the day it was caught. This is a good



and low-on-the-food chain source of protein, and we should be allowed (and encouraged) to catch a fair amount to use for our personal consumption.

I ask that you please consider allowing more than the proposed 50-pound daily limit. I think that a daily bag limit of 100 pounds (or roughly two five-gallon buckets) would be fair.

Thanks for your consideration.

Sincerely,

John Vogel

**From:** Sean Xiong  
**Sent:** Monday, March 05, 2018 10:17 AM  
**To:** FGC <FGC@fgc.ca.gov>  
**Subject:** Herring regulation for recreational fishermen

Hi Dear FGC,

I've heard that 50 pound limitation per day has been proposed for discussion and I have serious concern.

Even without any limitation for this herring season, more than half of my fishermen friends did not get chance to get sufficient herring for their families. Most of us have regular jobs that require 5 days of regular hours at work. That said we have very few opportunity to get out for herring fishing and we really appreciate the more flexible regulation.

All herring we caught were consumed by our families (especially our kids considering other species such as rock cod, striped etc have high mercury level).

Best regards,  
Pinghua Xiong

-----Original Message-----

From: Josiah Clark  
Sent: Monday, March 05, 2018 8:35 AM  
To: FGC <FGC@fgc.ca.gov>;  
Subject: Herring Limit

Greetings honorable fish and game commissioners, I am writing regarding the take limit negotiations for sport herring fishing.

I have been witness to egregious acts of greedy overfishing by citizens at Bay Area herring runs, which I have been attending for over half a decade.

However, I believe the proposed limit of just one bucket is very meager.

For many of us hearing have become a major food source and important base of the fisherman's food pyramid. It's very easy to use up 5 gallons of herring over the course of a couple of crabbing outings for example.

Considering most of us may have just one opportunity all year to catch herring, I would like to propose a limit of 3, 5 gallon bucket's per day. I also think there needs to be more investigation of those who are catching huge amounts day after day. Indeed it is a shame that perhaps just 3-5% of the fishermen are bringing heavy handed regulations to this recently little known, recently celebrated fishery.

Finally, I urge more regulation and more oversight of the commercial fishery which takes volumes more catch than all of us sportfishermen combined.

Indeed there seems to be a lack of respect for the resource by the commercial fisherman, who can be heard referring to their catch as "garbage" as they step all over them on the decks of their big boats.

Regards, Josiah MT Clark, Consulting Ecologist

Sent from my iPhone

**From:** Andrew Bland

**Sent:** Monday, March 05, 2018 8:27 AM

**To:** FGC <FGC@fgc.ca.gov>; Alastair Bland

**Cc:** Bartling, Ryan@Wildlife <Ryan.Bartling@wildlife.ca.gov>;

**Subject:** Public comment on herring fishery management plan

Dear FGC,

I am writing to express my opposition to the proposed 50-pound daily limit for the recreational herring fishery. I am a kayak-fisherman, spear-fisherman, and (former) abalone diver, and I also enjoy catching herring in the winter months.

As others have said, hauling home multiple garbage cans full of herring does seem excessive, and I support some sort of restrictions on recreational take. However, 50 pounds is not a lot, and due to the unpredictable nature of herring spawning events, that might be all the herring one catches in a season.

I was lucky enough to make it to three spawns this year, and have put away well over 100 pounds of herring (all of which I will eat with friends and family). Some people with busier or less flexible schedules, however, might only make it to one spawn, and would therefore wind up with only 50 pounds for the entire season.

Contrary to what many say, herring freezes well, and can be eaten many months after the day it was caught. This is a good and low-on-the-food chain source of protein, and we should be allowed (and encouraged) to catch a fair amount to use for our personal consumption.

I ask that you please consider allowing more than the proposed 50-pound daily limit. I think that a daily bag limit of 75 to 100 pounds (or roughly two five-gallon buckets) would be fair.

Thanks for your consideration.

Sincerely,  
Andrew Bland

**From:** Alastair Bland

**Sent:** Monday, March 05, 2018 8:21 AM

**To:** FGC <FGC@fgc.ca.gov>

**Cc:** Bartling, Ryan@Wildlife <Ryan.Bartling@wildlife.ca.gov>; Josiah Clark

Krishna Dole ; Nathan Lee ; Andrew Bland

;

Michel Dedeo

>; Kirk Lombard

**Subject:** Public comment on herring fishery management plan

Dear Fish and Game Commissioners,

I am a recreational fisherman based in San Francisco . As the Commission considers placing a daily bag limit on Pacific herring, I want to suggest a limit of at least 2 (two) 5-gallon buckets of Pacific herring per person per day.

I catch and eat herring each year. The fish freeze well and can be thawed and broiled or fried 12 months and more after they are first frozen. The quality does not deteriorate. My family and I eat almost 100 percent of the catch, head to tail, eggs and sperm sacks included. I have lately been using the innards to make fermented fish sauce.

The proposed 50-pound limit is too strict and will unfairly and inadvertently limit many fishermen to 50 pounds per *year*, simply because opportunities to catch herring can be few and far between. That is, one cannot catch herring every day. The fish must be actively spawning near shore for us to reach them. On top of that, the fisherman's schedule must align with that of the herring. As often as not, the fisherman arrives at the water a day too late and goes home with nothing. For these reasons, it is important to us who consider herring a valuable part of our lives that we be allowed a generous catch on those few days of the winter that we actually are able to throw nets on top of densely schooled fish.

I would like to see a daily bag limit of at least 2 (two) 5-gallon buckets (the standard food-grade type commonly used to contain bulk soy sauce or to brew beer). This would amount to roughly 80 pounds per person per day and, in my opinion as a herring fisherman, is a much more reasonable limit than the proposed 50-pound limit. Others may argue for an even higher limit, and I will be supportive of such suggestions.

I would like to make one more key point: I know of multiple recreational fishermen who individually have taken 30 to 50 halibut each year for many years from San Francisco and Tomales bays. This may be 500 pounds annually of a top predator killed by one person. Similar numbers are logged for albacore, assorted rockfishes and salmon. There is no annual limit on these species (and I don't necessarily think there should be). Yet regulators are now considering placing a de facto 50-pound yearly limit on the recreational harvest of herring, a fish that occupies the bottom tier of the food chain, that eats plankton, that is a trophic step away from absorbing sunlight to grow. Herring are essentially as plentiful as grass. I hope you see my point -- that this is a backwards regulatory approach. If anything, we should regulate most strictly from the top of the food chain down, with the tightest limits (and perhaps annual caps) on large predatory fish and the most generous, encouraging limits for small forage fishes that are naturally plentiful.

Please consider my concerns if you impose a daily bag limit on Pacific herring.

Thanks very much.

Sincerely,

Alastair Bland

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**From:** Mark Lockaby  
**Sent:** Tuesday, March 06, 2018 6:19 AM  
**To:** FGC  
**Subject:** Oposed to 50lb Herring Limit

Dear FGC,

I am writing to state that I am opposed to a 50lb herring limit. I feel that a limit of 75-100 pounds would be more reasonable. It is unlikely that those of us who fish from shore would be able to fish in more than one location each year. The peak spawn only lasts for a few hours, and it just takes too long to get to locations other than where I live.

This year I spent all day January 1, 2018 at Point Richmond watching the spawn moving around the area but it never arrived at the pier. From then on I checked the area every morning and evening for the spawn to return. They arrived almost a month later and by the time I found out about it and got to the pier the peak was over.

It is a lot of work for the chance of a couple of hours of fishing per year.

Please consider having a limit of 75-100 pounds minimum.

Sincerely,

Mark Lockaby

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**From:** Nathan Lee < >  
**Sent:** Monday, March 05, 2018 9:25 PM  
**To:** FGC  
**Subject:** sport herring limit

Dear Fish and Game Commissioners,

I am a recreational fisherman based in San Carlos (94070) . As the Commission considers placing a daily bag limit on Pacific herring, I want to suggest a limit of at least 100 pounds or 4 (four) 5-gallon buckets of Pacific herring per person per day.

I catch and eat herring each year. I also freeze all the smaller fish to use as bait for salmon, halibut, and lingcod during the rest of the year. For the last two years I pickle 30lbs of herring, fry some and kipper about 10lbs. The non edible parts from processing the herring for pickling and kippers are turned into a rich compost for my garden.

I have been fishing in the San Francisco bay for 38 years. I still remember my first fishing trip to the Municipal pier in the San Francisco bay when I was 8 years old. My first fish was a perch. Out of 38 years, I've only caught herring in three out of those 38 years. In these three successful seasons, I've only caught fish on 6 days. So, out of 38 years of fishing in California, I've only caught herring on six days.

If you set an arbitrary daily limit, please consider that due to limited shoreline access, weekday work commitments, weather, distance and time constraints from an available spawn, I may only get to fish one spawn...if I am lucky.

Please consider my concerns if you impose a daily bag limit on herring.

Thank you,  
Nathan Lee



## COMMITTEE STAFF SUMMARY FOR JULY 20, 2017

growers. At the Feb 2016 FGC meeting, staff proposed options to establish a requirement for BMPs unique to each state water bottom lease area (see Feb staff summary in Exhibit A1). FGC ultimately gave direction to pursue a regulatory approach and DFW staff agreed to work with FGC staff, growers, and the public to cooperatively develop categories for best management practices. Today DFW staff will report out on the first public meeting held on Jul 17, 2017 in Marshall, near Tomales Bay (see Exhibit A2), and describe next steps for public engagement.

- (B) **New leases:** Persons wishing to lease a state water bottom for aquaculture are required to make a written application to FGC (Fish and Game Code Section 15403). FGC has not approved a new lease in over 25 years. However, interest in further developing the industry continues to grow, and its value is recognized by the California State Legislature (Exhibit B1). In Feb 2017, FGC received an application for a new lease in Tomales Bay; in addition, an application for new aquaculture lease plots offshore Ventura is being developed. The public has requested to provide input on what information FGC may need to consider before making any determinations to approve new state water bottom lease applications; FGC has referred this topic to MRC for an initial discussion today.

**Significant Public Comments**

- Comments on item 7A supporting formal aquaculture BMPs that are mandatory, legally binding and adequately enforced, coupled with an inspection and monitoring program. Recommendation that BMPs be enacted before considering new aquaculture leases, and a list of ten proposed BMPs. See exhibits A3 and A4.

**Recommendation (N/A)****Exhibits**

- A1. Staff summary from Feb 2016 FGC meeting
- A2. Agenda, location map, and DFW background document for BMP public meeting on Jul 17, 2017
- A3. Email from Ashley Eagle-Gibbs, Esq., Environmental Action Committee of West Marin, received Jul 7, 2017
- A4. Email from Richard James, received Jul 7, 2017
- B1. Bill text for Assembly Joint Resolution 43, adopted Aug 21, 2014

**Committee Direction/Recommendation (N/A)**





California Fish and Game Commission  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814

STATE OF CALIFORNIA  
EDMUND G. BROWN JR., GOVERNOR

NATURAL RESOURCES AGENCY



California Department of Fish and Wildlife  
1416 Ninth Street, 12th Floor  
Sacramento, CA 95814

## Shellfish Aquaculture Best Management Practices Stakeholder Discussion July 17, 2017

Marconi Conference Center  
18500 Shoreline Highway (SR 1), Marshall, CA

### Meeting Summary

#### Meeting Goals

- Communicate intent of the rulemaking
- Understand the rulemaking process and opportunities for future public engagement
- Best management practices (BMP) categories discussion and feedback

1. **Welcome** – California Fish and Game Commission (Commission) Sea Grant Fellow Heather Benko provided a welcome, covered ground rules, and invited all staff and participants to introduce themselves. The following staff of the Commission and California Department of Fish and Wildlife (Department) were present:

#### *Commission Staff*

Susan Ashcraft	Marine Advisor
Heather Benko	Sea Grant State Fellow

#### *Department Staff*

Randy Lovell	State Aquaculture Coordinator
Kirsten Ramey	Senior Environmental Scientist Supervisor
Andrew Weltz	Environmental Scientist

2. **Overview of background and milestones** – Presented by Randy Lovell

The impetus for the jointly-led aquaculture BMP public meeting originated from community members who raised concerns to the Commission on the trash and plastic pollution produced by aquaculture leaseholders in Tomales Bay. Developing good practices in aquaculture fits into a larger picture of stewardship in general, and the purpose of this meeting is to look at the practices of aquaculture leaseholders to determine what criteria need to be considered in a BMP plan to promote greater stewardship of the public trust resource. The topic is focused on BMPs for shellfish aquaculture conducted on state water bottom leases issued by the Commission.

The Commission directed staff to begin to identify categories of BMPs that have application to California shellfish farms. The goal of this meeting is to begin to identify potential core elements or categories of BMPs for that effort.

The focus of the conversation is on leases under the jurisdiction of the Commission and how to best match the strength of regulations with responsible commitment from leaseholders to eliminate contributions to the problem of plastic pollution in the ocean, as well as other areas of responsible management.

The use and application of BMPs is a concept that strives to be nimble, effective, and achieves commitment from both leaseholders and public stakeholders through an adaptive and transparent management approach. The right solution will find a balance between social and economic importance of shellfish aquaculture (i.e., locally grown seafood, working waterfronts, and economic stimulus) and protecting the public trust resource.

### **3. Staff overview of the State rulemaking process – Presented by Susan Ashcraft**

The authority of the Commission extends to issuing leases for the purpose of aquaculture on all state lands in California, except in Humboldt Bay. The terms of each lease are mandated by the Commission before the lease is executed.

The Commission decided to incorporate BMP language into a regulation instead of into the language of the leases themselves in order to allow for flexibility in the implementation and enforcement of the requirements. If BMP language was inserted into the lease, it would only be reviewed by the Commission when the lease was up for renewal (in the case of current leases, only once every 20-25 years). If a new regulation is adopted around the implementation of BMPs, there could be more regular reviews by the Commission on the BMP requirements.

A brief outline of the Commission's rulemaking process was provided, including opportunities for public input

### **4. Best management practices (BMPs)**

#### **(A) Regulatory approach – Presented by Susan Ashcraft**

The Commission recognized that while some BMPs may broadly apply to all growers, in some instances BMPs would need to be individualized based on the unique conditions on each lease. Therefore, rather than define a standardized set of BMPs, a regulation would specify what categories of BMPs must be included in BMP plans. The regulation would require that growers develop individual BMP plans specialized for their individual lease area(s) that address all BMP categories defined in regulation for approval by the Commission.

#### **(B) Developing BMP categories Presented by Kirsten Ramey**

Goals: The overarching goal is to limit the risk of undesirable ecological effects to an acceptable level while allowing for sustainable shellfish production. More specifically, the goals for BMPs are to (1) minimize pollution and/or environmental impacts of shellfish aquaculture, (2) provide guidance for sustainable shellfish production while safeguarding the environment, (3) support adaptive management within acceptable bounds, and (4) promote safe and productive uses for state waters.

Considerations: Ecological impacts that we are guarding against, acceptable and unacceptable levels of impact, achievability of desired end results, BMPs versus performance standards – should the “standard” set objectives that are not achievable with current technology or practices?

Current Categories of BMPs under Consideration:

- Site selection and access
- Materials/operations/maintenance
  - robust designs
  - operational discipline
- Maintenance of environmental quality
  - habitat
  - water quality
  - species impacts/considerations
- Disease prevention
  - biosecurity

(C) Group discussion about BMP categories

A variety of ideas were brainstormed by stakeholders, reflecting concerns or suggested areas of focus for BMPs, including:

Site Selection/Access

- Ensuring recreational, navigational access
- Buffer zones to limit spillover effects into potentially sensitive habitats, impacts on navigation, etc.
- Clear boundary marking

Materials, Operations, and Maintenance

- Education/training for aquaculture workers on environmental responsibility/stewardship
- Solid waste management plan
- Separate ecological impacts from human use impacts

Maintaining Environmental Quality

- Ensure BMPs are consistent with established standards to avoid duplication
- Set minimum acceptable levels of impact
- Prioritize essential fish habitat and other sensitive habitats
- Prioritize special status and keystone species
- Incorporate adaptive management component

Disease Prevention

- Require use of triploid (sterile) oyster seed for some non-natives
- Managing risk of naturalization of non-native cultivars

General

- Specific BMPs for areas of specialization
- Set benchmarks - measurable and enforceable standards

- Measure cumulative impacts, including off lease areas
- Lessons from Humboldt Bay on site selection around eel grass, debris, etc.
- Consider carrying capacity of areas sited for aquaculture leasing
- Suggest regional plans that help define appropriate siting
- Define outcomes being targeted with BMPs

#### Parking Lot Items

- Financial surety
- Lease renewals and new lease applications
- Define native versus non-native versus invasive
- Legacy debris removal
- Interagency disclosure and collaboration for easier public review of necessary documents
- Enforcement and consequences
- Role of permitting process (including the California Environmental Quality Act and the National Environmental Protection Act) versus BMPs
- Value of outreach and education for the general public
- Performance-based planning

**Adjourn** – The meeting adjourned at approximately 4:00 p.m.



California Fish and Game Commission  
1416 Ninth Street, Room 1320  
Sacramento, CA 95814

STATE OF CALIFORNIA  
EDMUND G. BROWN JR., GOVERNOR

NATURAL RESOURCES AGENCY



California Department of Fish and Wildlife  
1416 Ninth Street, 12th Floor  
Sacramento, CA 95814

## Shellfish Aquaculture Best Management Practices Stakeholder Discussion May 29, 2018

Santa Barbara Harbor – Marine Center Classroom  
132-A Harbor Way, Santa Barbara, CA

### Meeting Summary

#### Meeting Goals

- Communicate California Fish and Game Commission (Commission) intent to consider adopting regulations related to shellfish aquaculture best management practices (BMPs) for state water bottom leases issued by the Commission for purposes of aquaculture (aquaculture leases)
  - Understand the state's rulemaking process and opportunities for public engagement on aquaculture leases
  - Discuss and offer feedback on categories of standard practices and management considerations to address in BMP plans specific to each shellfish growing site
1. **Welcome** – Commission Sea Grant State Fellow Leslie Hart provided a welcome, covered ground rules, and invited all staff and participants to introduce themselves. The following Commission and California Department of Fish and Wildlife (Department) staff and invited speakers were present:
- Commission Staff**
- |                |                        |
|----------------|------------------------|
| Susan Ashcraft | Marine Advisor         |
| Leslie Hart    | Sea Grant State Fellow |
- Department Staff**
- |              |                               |
|--------------|-------------------------------|
| Randy Lovell | State Aquaculture Coordinator |
|--------------|-------------------------------|
- Invited Speakers**
- |                 |   |
|-----------------|---|
| Phoebe Racine   | University of California, Santa Barbara (UCSB) Ph.D student |
| Josh Graybiel   | UCSB master's candidate                                     |
| Sutara Nitenson | UCSB undergraduate student                                  |
2. **Overview of background and milestones** – Presented by Randy Lovell
- The impetus for this public meeting, which is jointly convened by Department and Commission staff, originated from community members who raised concerns to the

Commission on the practices of certain current and former aquaculture leaseholders in Tomales Bay, leading to trash and plastic pollution in the bay. Developing good practices in aquaculture fits into a larger picture of stewardship in general, and the purpose of this meeting is to look at the practices of aquaculture leaseholders to determine what criteria need to be considered in a lease BMP plan to promote greater stewardship of the public trust resource. The topic is focused on BMPs for shellfish aquaculture conducted on state water bottom leases issued by the Commission.

The Commission directed staff to begin to identify categories of BMPs that have application to California shellfish farms; staff is working to identify potential core elements or categories of BMPs for that effort, and today's meeting is the second of two public meetings hosted by Department and Commission staff on the topic (the first being held in Marshall, Tomales Bay area, in July 2017).

The focus of the conversation is on leases under the jurisdiction of the Commission and how to best match the strength of regulations with responsible commitment from leaseholders to eliminate contributions to the problem of plastic pollution in the ocean, as well as other areas of responsible management.

The use and application of BMPs is a concept that strives to be nimble, effective, and achieves commitment from both leaseholders and public stakeholders through an adaptive and transparent management approach. The right solution will find a balance between social and economic importance of shellfish aquaculture (i.e., locally grown seafood, working waterfronts, and economics stimulus) and protecting the public trust resource.

### **3. Staff overview of the regulatory approach for BMPs and State rulemaking process** – Presented by Susan Ashcraft

Susan Ashcraft provided an overview of the authority of the Commission to issue state water bottom leases for purposes of aquaculture on all state water bottoms in California, except in Humboldt Bay. The terms of each lease are mandated by the Commission and agreed upon by the lessee before a lease is executed.

The Commission decided to incorporate BMP language into a regulation instead of into the language of the leases themselves in order to allow for implementation of the requirements across all current lease holders. If BMP language was inserted into leases, it would only be reviewed by the Commission when a lease was up for renewal (in the case of current leases, only once every 20-25 years). If a new regulation is adopted to implement BMPs, the regulation would apply to all growers, and would allow for more regular reviews by the Commission.

The Commission recognizes that while some BMPs will broadly apply to all growers, in some instances BMPs will need to be individualized based on the unique conditions on each lease. Therefore, rather than define a standardized set of BMPs, a regulation would specify what categories of BMPs must be included in BMP plans. The regulation would require that growers develop individual BMP plans specialized for their individual lease area(s) that address all BMP categories defined in regulation for approval by the Commission. An overview of the outcomes of the Tomales Bay public meeting in July 2017 was provided, as well as a brief outline of the Commission's rulemaking process, including opportunities for public input.

#### 4. Group Discussion on BMPs

##### (A) Discuss factors to consider when developing BMP plans

Leslie Hart introduced Phoebe Racine and two other students from the UCSB Bren School of Environmental Science & Management, and invited them to describe the work their group is conducting this year. Under an on-campus grant, the group is funded to review and recommend BMPs for offshore shellfish aquaculture practices in the Santa Barbara Channel. The group's efforts are meant to provide assistance to proposed aquaculture project(s) that may come forward within the Santa Barbara Channel (including federal water jurisdictions), support state rulemaking efforts where relevant, and inform related policies in both instances. The group has reached out to a number of people across agencies and communities, conducted stakeholder interviews, and performed a literature review to identify and compare possible BMP categories. Some identified BMP categories include water quality, site selection, disease prevention and containment, and substrate impact. The group displayed a preliminary website meant to showcase its findings and recommendations; the website is expected to interlink to other relevant websites, including state online resources.

Participants asked questions and shared additional perspectives. Shellfish farmers urged Commission and Department staff to avoid BMPs for activities already addressed under separate requirements (other laws or governance of other agencies).

##### (B) Group discussion about BMP categories

A variety of ideas were brainstormed by stakeholders, reflecting concerns or suggested areas of focus for BMPs, including:

###### *Concerns*

- Displacement of fisherman jobs
- Interference with historical fishing grounds based on siting
- Pollution/clean-up of aquaculture farms
- Competition between California shellfish farmers and imported aquaculture products
- Capacity of the market/economics
- Predator management
- Monitoring/compliance/enforcement
  - Cost of compliance
  - Redundant compliance pathways

###### *Site Selection*

- Avoid historical fishing grounds

###### *Material, Operations and Maintenance*

- Pollution/clean-up of aquaculture farms
- Establish effective enforcement for clean-up
- Clean-up fund
- Biosecurity

- Frequency of gear updates and maintenance

*General*

- Adaptive management
- Standards for health, genetics and diversity for seed stock
- Recognize compliance jurisdictions and overlap
- Spatial capacity

**(C) Partnership Opportunities**

A brief discussion was held about opportunities for growers and researchers to partner together, with emphasis on the UCSB project.

In addition, shellfish growers in the room highlighted a concern related to the need for research and development of new growing methods or species; not only would these offer economic development, but assess whether new practices could lead to better practices before going through lease and permit amendment processes that also require California Environmental Quality Act review. A suggestion was made to develop a permitting mechanism to allow for the conduct of small-scale experiments by lease-holding growers and researchers focusing on issues such as:

- Siting
- Practices
- Species
- Optimization
- Non-natives

**5. Next steps**

Staff highlighted next steps and opportunities for more public involvement. The Commission's Marine Resources Committee will discuss progress on the BMPs project during its July 17 meeting in San Clemente. Once draft categories and BMP plan requirements are drafted, there will be an additional public review opportunity before the Commission schedules the rulemaking cycle. Staff encouraged participants to reach out to any of the staff present with further thoughts and input.

**Adjourn**



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**From:** Johnston, Bob  
**Sent:** Sunday, April 01, 2018 10:22 AM  
**To:** FGC  
**Cc:** Johnston, Bob  
**Subject:** Aquaculture Leases: Comments

Valerie,

Please place this email into the file for your aquaculture program regulations.

I have read the Tomales Bay and some other California aquaculture leases, as well as others from nearby states. They all fall short of good regulatory practice, in terms of the state-of-the science re. impacts. In addition, at the Tomales Bay conference a few months ago, I learned that the public cannot find all of the related documents in one place. In other words, informed public participation is impossible. CEQA documents are required to summarize related regulatory documents and studies, but often do a poor job of this and often do not include links to those documents, some of which have not been digitized.

In your aquaculture program in general, and in specific aquaculture leases, pls adopt a BMP that requires F&W staff and the F&G Commission to summarize all previous and related regulatory documents, so that your staff report will centralize the very-difficult-to-track-down other agency documents. Better yet, also pls put up a web site with a page for each aquaculture lease and then put links on there for each of the other agencies' documents (regulatory reports, other studies). Other State agencies, such as the Water Bd. have recently put whole classes of permits online with links to underlying documents.

Thanks,

Bob

Robert A. Johnston

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**From:** Don S  
**Sent:** Saturday, March 31, 2018 4:02 PM  
**To:** FGC; Ashcraft, Susan@FGC  
**Subject:** Aquaculture Best Management Practices

Valeri & Susan,

I was directed to contact you both by a person who I have total respect and admiration for the work he does in Marin County aquaculture. I read his blog quite often and am always amazed at the quality of work and research he shares with the public, FOR FREE.

As much as I enjoy oysters like the next person, so much so I can eat a LOT of raw oysters in one sitting, it's a crime to me that the farmers of these terrific oysters destroy the ocean in the process. I could provide a ton of links of news stories of the amount of plastics that are killing our ocean life without going into all the other debris and ocean destroying ways humanity performs. All we can do is our little part and I would say, Richard does more than his share.

<https://coastodian.org/best-management-practices-for-california-aquaculture-still-waiting-for-them/>

I URGE you both and anyone else that should be more engaged in oceanic preservation to take a look at the above link and push for these kinds of practices, not to mention better enforcement of these best practices AND laws.

Thank you for your time and consideration.

Don

**8. FISHING COMMUNITIES**

**Today’s Item**

**Information**

**Action**

Explore the developing concerns about the sustainability and vitality of California’s fishing communities and ports and what, if any, role FGC has in this issue.

**Summary of Previous/Future Actions**

- MRC initial discussion Mar 4, 2015; Marina
- **Today’s scoping** **Nov 4, 2015; Ventura**

**Background**

Eleven public ports and numerous harbors dot the coast and waterways of California. Adjacent coastal communities that are reliant on certain fisheries and the fish harvesting industry are often referred to as “fishing communities,” at various scales. Fishing communities depend on a number of conditions and players to sustain their vitality.

Over the past 15-plus years, many fishing communities have been confronted by challenges associated with changes in fishing or economic opportunity. Examples of challenges include fisheries management changes (e.g., management responses to address overfishing, overcapitalization and excess capacity in fisheries; loss of fish habitat, and fishery/area closures for species listed under the Endangered Species Act or federal rebuilding plans); environmental fluctuations in diversity, abundance, and distribution in fish assemblages, including those associated with climate change; and economic challenges related to increased competition in the global marketplace, and the recent economic downturn in general. The destabilizing effect of these challenges, and fishing/coastal community vitality and resilience, is a topic of active conversation along the Pacific coast, and nationwide (see exhibits 1-4).

FGC referred this agenda topic to MRC in 2014 following a petition from three northern California fishermen for new permits to fish for a more southerly species that had shown up in unusually high numbers due to warm water conditions. The petitioners, as well as supporters from northern California fish businesses and city representatives, made their case in support of the petitions based on the economic needs of local coastal communities reliant on fishing. While the specific request could not be granted without a lengthy regulatory and stakeholder process, FGC asked MRC to explore the issue of coastal community needs and the highlighted concerns.

Originally scheduled for discussion at the March 2015 MRC meeting, time constraints only allowed for an initial and very limited discussion. Today, staff will initiate further conversation with an overview of “fishing communities,” guiding principles from the MLMA, and a report on current initiatives underway in California at the federal and local levels. One of the goals today is to hear from community members themselves, who are vital to clarifying the scope of the issues relevant to California fishing communities (see exhibits 5 and 6 for some perspectives originally submitted for the March 2015 MRC meeting).

## STAFF SUMMARY FOR NOVEMBER 4, 2015

**Significant Public Comments**

1. Assemblyman Jim Wood has expressed concerns about the needs of northern California coastal communities (Exhibit 5)
2. The California Wetfish Producers Association (CWPA) supports discussing the big big-picture issue of sustainable harbor communities (Exhibit 6)

**Recommendation**

Solicit public input on the scope of issues of concern regarding California's fishing community vitality and resilience, and evaluate if there are areas where FGC can play a role. What types of views, values, and concerns do different stakeholders, including coastal fishery participants, currently hold, and what can contribute to resilient fishing communities? What is the role that fishermen and local communities can play, that FGC and its policies can play, and how can stakeholders effectively engage and represent the concerns of their communities to help create more efficient and effective management?

**Exhibits**

1. California Sea Grant Extension Program webpage on fishing communities (<https://caseagrants.ucsd.edu/project/discover-california-commercial-fisheries/fishing-communities>), accessed Feb 26, 2015
2. Ocean Protection Council webpage on preserving California's fisheries (<http://www.opc.ca.gov/2010/01/preserving-californias-fisheries/>), accessed Oct 28, 2015
3. Maine Sea Grant, Best Practices for Working Waterfront Preservation: Lessons Learned from the Field, Mar 2013
4. National Working Waterfront Network webpage for Trinidad Harbor case study ([http://www.wateraccessus.com/case\\_print.cfm?ID=31](http://www.wateraccessus.com/case_print.cfm?ID=31)), accessed Oct 28, 2015
5. Letter from Assembly Member Jim Wood, received Jan 26, 2015
6. Email from Diane Pleschner-Steele, CWPA, received Feb 12, 2015

**Committee Direction**

Provide guidance on next steps to consider fishing community needs.

**California Fish and Game Commission  
Marine Resources Committee**  
Coastal Fishing Communities Project  
Public Meeting Locations in 2017 and 2018



# California Fish and Game Commission

## Restricted Access Commercial Fisheries Policy

*Adopted June 18, 1999*

It is the policy of the Fish and Game Commission to:

The policies in this document provide a source of information for the public and a guide for the Commission and Department in preparing and reviewing legislation, regulations, or policies that propose to restrict access to commercial fisheries. The development and adoption of these policies do not represent an initiative to apply restricted access approaches to all California fisheries. The objective is primarily to guide the Commission and Department in responding to requests for restricted access programs.

### 1. Restricted Access as a Management Tool

The global context. Virtually every modern fishery faces--or has faced--similar intractable management problems. Because these problems recur in so many dissimilar fisheries, it is clear that they are not caused by the biology of the species harvested, nor do they depend on the type of gear or size of vessel employed by harvesters.

The one factor common to all of these fisheries is that the fishery resources are available to anyone who wants to pursue them. Once a fisheries management authority specifies the total catch, the season length, and the allowable gear, every fisherman competes with every other fisherman to catch as much as possible in the shortest time possible. In some fisheries, bigger and faster boats, more electronics, more gear, longer hours each day and fewer days each season are the result as each fisherman rushes to catch more than the other--the "race for fish" so often described in the fishery management and economics literature. In other fisheries, the problem may just be that the number of participants has increased to a level that jeopardizes the economic viability of the fishery. What makes sense for the individual makes no sense in the aggregate because it results in too many vessels, too much gear, too much waste, and too little income for fishermen. Moreover, excess fishing capacity usually leads to overfished populations of fish, which eventually leads to confrontations between fishermen and fishery managers over the status of the resource and the need for more restrictive regulations. Debate then follows over the need for better data.

The race for fish does not result from inadequate biological information. Population surveys, stock assessments and biological samples are important components of sound fishery management, and improving the science on which management decisions are based is always a desirable objective. But management plans based on better biology alone will not solve problems caused by the economics of the harvest system. Economic problems must be addressed directly.

The most effective solutions to these fishery management problems restrict fishing effort in some way so that the "race for fish" is ended. New entry to a fishery is most often restricted by issuing only a certain number of licenses to participate in the fishery. Existing effort in a fishery is usually restricted by limiting the size of the vessel, limiting the size or amount of gear, or directly limiting the quantity of fish that can be landed. Theoretically, the "right" number of

licenses fished by the "right" size of vessels using the "right" amount of gear can harvest fish more sustainable and efficiently than the unrestricted fleet.

The problems restricted access programs are meant to address can actually become worse if the programs are poorly designed. Because many restricted access programs have been seriously flawed, some fishermen and others lack confidence that they can work. For example, in setting up restricted access programs, fishery managers have sometimes issued licenses to many more participants than are possible for the fishery to be both sustainable and economically viable for its participants. Clearly, expanding the fleet can have no effect on slowing the race for fish. Just as important, effort restrictions, such as those on the size of vessels or amount of gear, have sometimes been insufficient to restrain fishing power. Finally, managers sometimes address only one dimension of the race for fish by restricting access without also restricting capacity expansion by existing fishermen.

Because these mistakes have been frequent, it is sometimes said that restricted access doesn't work. What does not work is a management system that lacks the clear policies, the will, and the compassion to design and implement restricted access systems that reconcile the need of fishermen to make a living with the need to restrict total harvest. The set of policies in this document are intended to provide guidance on restricted access programs for the Commission, the Department, the fishing industry, and other interested members of the public.

The California context. Because California historically did not restrict the number or amount of fishing effort allowed to harvest fish, the State's commercial fisheries generally are overcapitalized: they have the physical capacity to exert more fishing pressure than the resources are able to sustain. Loss and degradation of marine and anadromous habitats and other ecological changes have aggravated this condition of excess fishing capacity.

The build-up in harvest capacity began with the advent of ocean commercial fishing in the mid-1800s and accelerated following World War II. Vessels became larger and faster, have greatly increased fishing power and hold capacity, and use a wide variety of electronic innovations to find and catch fish. At the same time, increasing knowledge of the behavior of target species have made fishermen increasingly skilled at their trade.

Since the early 1980s, various programs have been implemented, through statute or regulation, to limit the number of commercial vessels or fishermen allowed to use specific types of fishing gear or to harvest specific species or species groups of fishes. These programs have seldom resulted in adequate reduction in the overall fishing capacity for those species. They sometimes have been effective in capping the number of fishery participants; however, an unintended consequence has been a shift in effort from restricted fisheries to open access fisheries that were already fully developed.

The lack of consistent policies for guiding the development of restricted access fisheries<sup>1</sup> has resulted in a myriad of laws and regulations. These are confusing to the industry, difficult for the Department to interpret and administer, and, in some cases, of questionable benefit to the fishery or the resource they were intended to protect.

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<sup>1</sup> Restricted access is used in this document to mean the application of laws, regulations, or policy that affect the number of fishing units or allowable take by individual units in a commercial fishery.

Potential benefits. Properly designed, restricted access programs can enhance the State's ability to manage its commercial fishery resources. Restricted access programs should:

- Contribute to sustainable fisheries management by providing a means to match the level of effort in a fishery to the health of the fishery resource and by giving fishery participants a greater stake in maintaining sustainability;
- Provide a mechanism for funding fishery management, research, monitoring, and law enforcement activities;
- Provide long-term social and economic benefits to the State and fishery participants; and
- Broaden opportunities for the commercial fishing industry to share management responsibility with the Department.

Need for other fishery management tools. Restricted access programs are important tools for fishery managers, but they do not eliminate the need for other fishery management measures, such as gear restrictions, time and area closures, size limits, landing quotas, total allowable catches, and related measures. In all fisheries, a minority of vessels or divers catches most of the fish. Statistics show that a major fleet size reduction would be required to significantly reduce the fleet's fishing capacity. A severe restriction in the number of fishery participants, while perhaps contributing to fishery sustainability, can have other consequences that are undesirable: processors may have difficulty acquiring fishery product, for example, and the control of harvest might shift to a few individuals. Laws or regulations that limit the amount of gear that vessels may use or that restricts the amount or size of fish that may be taken are usually important in ensuring that restricted access initiatives achieve the desired benefits.

**POLICY 1.1: The Commission and the Department may use restricted access programs as one of a number of tools to conserve and manage fisheries as a public trust resource.**

## 2. General Restricted Access Policy/Goals and Objectives of Restricted Access Programs

California's fisheries are a public trust resource. As such they are to be protected, conserved and managed for the public benefit, which may include food production, commerce and trade, subsistence, cultural values, recreational opportunities, maintenance of viable ecosystems, and scientific research. None of these purposes need be mutually exclusive and, ideally, as many of these purposes should be encouraged as possible, consistent with resource conservation.

Fisheries are also a finite and renewable resource. If harvest and other human-caused factors affecting their health are not managed, fishery resources may be less than optimally productive or, in the worst case, may suffer serious declines. Therefore, as part of a program of controlling harvest, it is appropriate to control the amount of fishing effort applied in a fishery, including restrictions on the number of individuals or numbers of vessels participating. Restricting access to a fishery has become one of many standard fishery management tools



that have been used by public agencies in carrying out their conservation and management responsibilities for publicly held finite fishery resources.

In general, the goals of restricting access to commercial fisheries are to contribute to the effective conservation and management of the State's marine living resources, provide long-term social and economic benefits to the commercial fishing industry and the State, and retain the public ownership status of those resources. More specifically, the Commission's purposes for restricting access or entry to a fishery are described as being to: 1) promote sustainable fisheries; 2) provide for an orderly fishery; 3) promote conservation among fishery participants; and 4) maintain the long-term economic viability of fisheries. Restricted access programs may be instituted in order to carry out one or more of these purposes in a given fishery.

Promote sustainable fisheries. Depending on the fishery, limiting the fishing capacity of the fishery by limiting the number of individual fishermen or vessels may be one means of reducing take in order to protect the fishery resource. In most instances, reducing the number of individuals or vessels alone will not in itself reduce take unless it is accompanied by complementary measures such as trip limits, quotas, seasons, or gear limitations. Together, restrictions on access coupled with other measures can be an effective way of controlling effort to protect fishery resources and contribute to sustainability.

Provide for an orderly fishery. Extreme overcapitalization can lead to unsafe conditions as part of the competition among fishery participants, as in the case of "derby" fisheries. Properly designed restricted access programs can promote safety in those circumstances. Where fishing grounds are limited due either to geographical factors or fish congregating in small areas where harvest occurs, it may be necessary to limit the number of individuals or vessels involved in the fishery. The herring roe fishery is one example of where restricted access was established primarily for the purpose of maintaining an orderly fishery.

Promote conservation among fishery participants. Limiting the number of individuals or vessels in a fishery can give those in the fishery a greater stake in the resource, a sense of ownership, and confidence that a long-term opportunity exists in the fishery that usually does not exist in open access fisheries. A well-designed restricted access program can give fishery participants greater incentive to be stewards of that resource and even to invest in rebuilding the fishery (the commercial salmon stamp program, for example). Limiting access can also increase compliance with fishery regulations since an individual with a restricted access permit is much less likely to risk losing the opportunity to participate in that fishery because of a fishery violation.

Maintain the long-term economic viability of fisheries. To assure the greatest economic benefit to society from the harvest of a public fishery resource, it may be necessary to limit the number of individuals or vessels to assure economically viable fishing operations. When open access contributes to the impoverishment of fishery participants or illegal or unsavory behavior by participants competing for the limited resource, some form of restricted access based on economic viability may be necessary. Any restricted access program established, entirely or in part, for the purpose of economic viability must be crafted to avoid restricting access more than is necessary.

**POLICY 2.1: The Commission may develop restricted access programs for fisheries that retain the public ownership status of the resource for one or more of the following purposes: 1) to promote sustainability; 2) to create an orderly fishery; 3) to promote conservation among fishery participants; 4) to maintain the long-term economic viability of fisheries.**

### 3. Development and Review of Restricted Access Programs

Participation of stakeholders in program development. Restricted access programs should be developed with substantial support and involvement from stakeholders. Indeed, many of California's current restricted access programs were drafted by, or with considerable input from, the affected fishermen (the salmon, herring, Dungeness crab, and sea urchin fisheries, for example). Programs in which fishery participants and others have a substantial role in the design benefit from their knowledge of both the resource and the business aspects of the fishery. Such programs are also more likely to enjoy the support of fishery participants during implementation. Furthermore, any restricted access program must be developed consistent with the stakeholder participation requirements of Section 7059 of the Fish and Game Code.

Programs specific to the needs of the fishery. Standardization in the elements of restricted access programs is a laudable goal and could help reduce some of the complexity fishermen and the Department are faced with when dealing with different requirements for different fisheries. However, the overriding concern is that each restricted access program meets the needs of its particular fishery.

Each of the existing restricted access programs in California fisheries was designed to meet the needs of a particular fishery. As a result of periodic reviews of those programs, it may be possible to reduce some of the complexity that has resulted. However, a program should not be revised solely for the purpose of uniformity or consistency if there is a sound basis for the unique features of the program.

Program review. Restricted access programs need periodic review for possible revision. Restricted access programs should be reviewed periodically by the Department and fishery participants in the particular fishery to determine whether the program still meets the objectives of the State and the needs of the fishery participants. For the statutorily created restricted access programs, this review should take place preceding the expiration ("sunset") dates when the law is under consideration for extension. In addition, this restricted access policy should be reviewed at a regularly scheduled Commission meeting at least once every four years following its adoption.

**POLICY 3.1: Restricted access programs shall be developed with the substantial involvement of participants in the affected fishery and others, consistent with the stakeholder participation requirements of Section 7059 of the Fish and Game Code. This approach shall balance the specific needs of the fishery with the desirability of increasing uniformity among restricted access programs in order to reduce administrative complexity.**

**3.2: Each restricted access program shall be reviewed at least every four years and, if appropriate, revised to ensure that it continues to meet the objectives of the State and the fishery participants. Review of each restricted access program shall occur at least**

**as often as the particular fishery is reviewed in the annual fishery status report required by Section 7065 of the Fish and Game Code. The general restricted access policy should be reviewed at a regularly scheduled Commission meeting at least once every four years following its adoption.**

#### 4. Elements of Restricted Access Programs

Categories of restricted access fisheries. Existing restricted access programs in California generally are based on target species or species groups of the fishery. The Commission expects that most new restricted access programs will follow that pattern.

Another option that may be appropriate for some fisheries, or groups of fisheries, is basing the restricted access system on gear type. Sixteen species or species groups of fishes comprise 90 percent of the State's commercial fish landings, although only a relatively few basic gear types produce the entire catch. As a means to minimize the number of programs and provide greater flexibility for fishery participants, the Commission and Department could base each restricted access program, first, on the gear type and then, if necessary, on endorsements for the species or species groups that are the target of that gear type. Where possible, the entire range of species (i.e., multi-species, ecosystem approach) contacted by a particular gear type would be included in the same program.

Additional flexibility would be provided in instances in which a fishery participant converted a restricted access permit from one gear type to another. Whether such conversions are allowed would be decided on a fishery-by-fishery basis depending on whether the conversion is consistent with the State's sustainable fisheries policies and the objectives of the two restricted access programs involved.

Each restricted access program should take into account possible impacts on open access fisheries and on other restricted access fisheries.

Fishery capacity goals and means to achieve capacity goals. Because a primary purpose of restricted access programs is to match the level of effort in a fishery to the health of the fishery resource, each restricted access program that is not based on harvest rights (see section on harvest rights) shall identify a fishery capacity goal intended to promote resource sustainability and economic viability of the fishery. Fishery capacity goals can be expressed as some factor or combination of factors that fairly represents the fishing capacity of the fleet. These factors may include the number of permitted fishery participants, number of permitted boats, net tonnage of the permitted fleet, amount of gear used in the fishery, and cumulative hold capacity. Fishery capacity goals should be based on such biological and economic factors as what is known about the size and distribution of the target species, historic fleet size or harvest capacity, and distribution of harvest within the current fleet. Conflicts with other fisheries or ocean interest groups and economic conditions (current and future) within the fishery may also be factored in to such determinations. Depending on the fishery, the fishery capacity goal may be expressed as a single number or as a range.

The preferred approach to determining the capacity goal is to conduct a biological and economic analysis of the fishery. The analysis should consider the probable level of resource sustainability and the impact of various fleet capacities on the fishery and local communities. When such an analysis is not feasible, the Commission, Department, and stakeholders should

work together in reviewing available information to arrive at a reasonable capacity goal for the fishery.

Capacity goals should be included in each restricted access program review. A fishery capacity goal will not be useful in managing effort in a fishery unless the restricted access program includes mechanisms for achieving the goal. If the fishery is overcapitalized and above its fishery capacity goal, there must be a system to reduce capacity as a basic requirement of the restricted access program. If the fishery is below its capacity goal, there must be a method to increase participation. In fisheries that are above their fishery capacity goals, transfers of permits should be allowed only if they are consistent with the system for achieving the fishery capacity goal (see Permit Transfers section).

In restricted access fisheries in which the permit is vessel based, the system for achieving fishery capacity goals must include a means of comparing and controlling the fishing power of individual vessels. Without that ability, the system controls only one aspect of fishery capacity--the number of vessels--without providing a means to manage the fishing power of those vessels (see policies on Permit Transfers and Replacement Vessels). The system may be based on factors such as vessel length, displacement, horsepower, hold capacity, or allowable amount of gear.

There are several options available to reduce the number of permits to meet fishery capacity goals. A few examples include:

- Attrition--permit reduction when permit holders fail to renew their permits--has contributed to reducing effort in some fisheries. That process is slow, however, and only occurs when the outlook for the fishery is so poor that the permit has little value.
- Two-for-one or similar requirements in transfer of permits have been used in several fisheries to reduce capacity and are effective if there is an active market for permits.
- Annual "performance" standards can be required of each permit holder. For example a minimum number of landings could be required to qualify for permit renewal. This approach may be appropriated in some fisheries although it can artificially increase effort.
- Permit or vessel buybacks have been used in a few fisheries and being explored for others in the United States. California's experience with this system is limited to nearshore set gill nets in Southern California. Buyback programs have been funded by both industry (through permit transfer fees, landing fees, special permit fees, etc.) and the public.

**POLICY 4.1: Each new restricted access program shall be based either on one or more species or species groups targeted by the fishery or on a type of gear. In programs based on a type of gear an endorsement may be required for one or more species or species groups targeted by the gear type. Each restricted access program should take into account possible impacts of the program on other fisheries.**

**4.2: Each restricted access program that is not based on harvest rights shall have a capacity goal. The Commission, Department and stakeholders will use the best available biological and economic information in determining each capacity goal.**

**4.3: Each restricted access fishery system shall have an equitable, practicable, and enforceable system for reducing fishing capacity when the fishery is exceeding its participation goal and for increasing fishing capacity when the fishery is below its fishery capacity goal.**

**4.4: In fisheries that exceed their fishery capacity goals, permit transfers will be allowed only if they are consistent with the means for achieving the fishery capacity goal.**

## 5. Permits

Issuance of initial permits. The public will be given reasonable notice of intent to limit access to the fishery. A legislative bill may serve as an initial notice of intent or the Commission may take an action that serves as a notice of intent.

The Commission may set a Control Date for determining qualification for a restricted access program. Some level of fishery participation may be required to qualify for an initial permit. Fishery qualification can be based upon fishery participation during a period of time preceding notification of intent. In determining criteria for qualifying for the program, the Commission may consider the balance of gear types currently or historically relying on the fishery or the specialty markets or niches that the fishery was intended to serve. Fish landing data maintained by the Department shall be the basis for documenting fishery participation. Affidavits of fishery participation, or medical statements of inability to meet qualification standards shall not be accepted unless a system for considering exceptions, consistent with Policy 5.1, is included in the design of the restricted access program. Vessels under construction or inoperable during the qualification period shall not be considered for a permit.

California has had a practice--shared with other states, the Federal government, and other nations--of giving preference for issuing permits into a restricted access fishery to fishermen or vessels with past participation in that fishery. The practice has meant, as well, that permits generally have been issued to licensed California commercial fishermen rather than to nonfishermen or persons not licensed in the State. The practice is a fair means to assure that those who rely on that fishery or who have invested in that fishery can remain in the fishery. In determining priorities for the issuance of permits in a restricted access fishery, first priority for permits shall be given to licensed commercial fishermen/vessels with past participation in that fishery. Among fishermen or vessels with past participation in the affected fishery, preference for permits may be based on factors such as years of participation in the fishery or level of participation (landings). Second priority for permits may be based on such factors as crew experience, number of years in California fisheries, or participation in fisheries similar to that for which a program is being developed. (An example of a similar fishery being considered for eligibility for a permit was when displaced abalone divers were added to those eligible for any new sea urchin permits.) Drawings or lotteries for permits should only be used when two or more applicants have identical qualifications (for example, the same number of points for eligibility for a herring permit).

When initiating a restricted access program with vessel-based permits, designing a formula for deciding which vessels qualify that is equitable but does not increase the number of permits or the amount of effort already in the fishery is difficult but necessary. Without such a formula, the program can easily exacerbate the fishery's problems. The Commission's policy on this issue has three elements. First, the policy for all restricted access fisheries begins with the premise that initiating a restricted access program must not increase the recent level of fishing effort. Second, the default approach in designing a new program will be to issue initial permits only to the current owners of qualifying vessels. Third, in order to meet the needs of a particular fishery, it may be desirable to modify the approach of giving permits only to current owners of qualifying vessels.

Such exceptions would be decided fishery by fishery, but in no case would the formula allow increasing the recent level of effort.

A permit issued for dive, gill net, and some trap fisheries shall be issued to qualifying fishermen. A permit issued for a boat-based fishery may be issued to: 1) an individual who owned a qualifying vessel during the period in which the vessel qualified, and 2) 20-year commercial fishermen (as provided in Section 8101 of the Fish & Game Code).

Issuance of new permits. In the case of restricted access fisheries that are below their fishery capacity goals, new permits may be issued. The factors used to determine priority for issuance of new permits might be the same as for the issuance of initial permits.

Permit renewal and duration. Permits are renewable annually upon application and payment of the permit fee if the permit holder meets the requirements of the restricted access program. Permits may be renewed annually for the life of the restricted access program. Limiting participation to a period less than the actual life of the limited access program has several drawbacks. First, it could eliminate incentive for conservation among permit holders if they know that their participation in the fishery will be limited. Second, a limitation on permit life would tend to discourage investment and diminish value of existing investment (vessels, for example) in the fishery. New investment in many fisheries is needed for safer, more fuel-efficient vessels, for equipment to maintain quality of the catch, and for changing gear. That will be discouraged if the duration of the permits is limited.

Substitutes. Each restricted access program with fisherman-based permits should determine whether substitutes for the permit holder will be allowed and, if so, in what circumstances and for what length of time. One option is that the permit holder must be present. Some programs have allowed temporary use of the permit by another in the case of death or disability of the permit holder.

**POLICY 5.1: The Commission will give adequate public notice of intent to establish a restricted access program. The Commission may set a Control Date for determining qualification for a restricted access program. A new restricted access program shall not allow fishing effort to increase beyond recent levels. Some level of fishery participation may be required to qualify for an initial permit. Fishery qualification can be based upon fishery participation during a period of time preceding notification of intent or on other factors relevant to the particular fishery. Affidavits of fishery participation or medical statements of inability to meet qualification standards shall not be accepted. Vessels under construction or inoperable during the qualification period shall not be considered for a permit.**

**5.2: New permits in a restricted access fishery shall only be issued when the fishery is below its fishery capacity goal.**

**5.3: Restricted access fishery permits shall be of one year duration and are renewed upon annual application and payment of the permit fee and shall be valid, provided they are annually renewed and the permit holder meets the requirements of the restricted access program for the life of the program.**

**5.4: Each fisherman-based program shall determine in what circumstances, if any, a substitute may fish the permit.**

## 6. Permit Transfers.

Permits within a restricted access program may be transferable or not, depending on the fishery. California currently manages some restricted access fisheries in which the permits are not transferable. Although non-transferable permits may be appropriate for some fisheries, the Commission expects that the trend will be toward transferability. First, permit transferability can and should be used as part of the mechanism for reducing capacity in a fishery that is above its capacity goal. Second, permit transferability allows for new entry into a restricted access fishery, particularly for younger fishermen or crew. Third, permit transferability protects part of an individual's investment in a fishery.

In California, as in nearly all states and federally managed fisheries, most limited access permits are transferable. Although a number of limited access fishery programs in California initially did not allow for permit transfers, these systems were found unworkable. Permit holders, even the aged, the sick, or those seeking to leave the fishery, held on to their permits, attempting in many instances to have the permit fished by another, non-permitted, individual. Non-transferability encouraged some fishery participants to work around the program rather than within it. Moreover, fishing vessels, particularly the larger ones or those built for a specific fishery, were rendered useless if there was no permit to go with them at the time of sale. For fishermen, as is the case with small business owners or farmers, their retirement funds are derived from the sale of their business, which in the case of a fisherman may be his/her vessel.

Fully transferable permits in restricted access programs have been criticized for the following reasons: 1) sales of permits on the open market can make the cost of entry into a fishery for young fishermen or crew extremely expensive and does not assure that the most deserving individuals obtain permits, 2) sales of permits on the open market can result in windfall profits for those individuals who were initially issued a permit by the State and whose investment in the permit has only been the payment to the State of the permit fee; and 3) sales of permits on the open market can result in permits going to more active participants or to larger vessels deploying more fishing effort thereby increasing the fishing effort or capacity of the fleet. To the extent that these criticisms are valid, they can, and currently are in California, being addressed through conditions placed on permit transfers.

In order to prevent an increase in fishing power, in California's salmon limited entry program permits are transferable with the fishing vessel at the time of sale or to another vessel of equal or less fishing capacity, under specified conditions.

In the herring fishery, where the permit is to the individual rather than the vessel, permit transfers may only be made to a fishing partner or an individual holding a maximum number of points in that fishery, with points based on years of crew experience and years in California fisheries. This limitation on transfers is intended to give an advantage to those who have spent time in the fishery. Thus, those deserving of a permit are given a preference. By limiting the market for permit sales, the cost of entry is lower than it would be if the permits were available on a wide open market.

It is also possible to prevent increases in fishery capacity and reduce speculation in permits by setting fishery participation criteria in selected qualifying years for a permit to be transferable, or by requiring that the permit be held for some minimum number of years before it can be sold.

It is possible, as well, for the State and other participants in the fishery to benefit from the sale of permits through transfer fees or two-for-one permit transfer requirements. In California, there are transfer fees in some restricted access fisheries where the fees exceed the cost of administering a change in the permit. A transfer fee addresses the concern that permit holders may be making windfall profits from the sale of permits and can allow the State to share in the economic benefits of good conservation and management measures. Other participants in the fishery can benefit if the permit transfer fees are re-invested in the fishery, such as through a permit buyback program. Both the State and participants in the fishery can benefit through two-for-one permit transfer requirements if they are used to help reach a fishery capacity goal.

**POLICY 6.1: Restricted access permits may be transferable. In fisheries in which the permit is transferable, transfer may be subject to conditions that contribute to the objectives of the restricted access program. In new restricted access programs, permit transfers will not be allowed unless a fishery capacity goal and a system for achieving that goal are part of the restricted access program. In existing restricted access programs, the objective is to review and revise those programs to include fishery capacity goals and systems to achieve those goals. A restricted access program may include a fee on the transfer of permits, in excess of actual administrative costs for the permit change, to offset other costs involved in the conservation and management of that fishery.**

## 7. Vessel Issues

Vessel retirement. All vessel-based restricted access programs should provide for the voluntary retirement of commercial fishing vessels so that these vessels are no longer eligible to compete with permitted vessels in future years. Any vessels requested by the owner to be retired will be permanently identified on registration documents required for commercial vessels. Permits from retired vessels may be allowed to transfer to replacement vessels within one year of retirement provided the replacement vessel is of equal or lower fishing capacity or to a larger vessel if the restricted access program provides for vessel upgrades (see section on vessel upgrades).

Replacement vessels. Replacement vessels of the same or lower fishing capacity as the permitted vessel will be allowed only if the permitted vessel is lost, stolen, or no longer able to participate as a commercial fishing vessel, as shown on State or government documents, or



other sources of information that the Department might consider. This requirement is necessary to preclude effort shift to open-access and other restricted access fisheries. The Department will make replacement vessel determinations. The ownership of the replacement vessel, as shown on government documents, shall be same as the permitted vessel.

Vessel permit upgrades. Fishermen who hold vessel permits may want the option of acquiring a larger or more efficient vessel and transferring their existing permits or acquiring and adding new permits to the new vessel. The concern with allowing fishermen to upgrade their vessels is that by doing so the overall capacity of the fleet to catch fish increases, which should be allowed only to the extent that it is consistent with the fishery capacity goal. To offset this increase in fleet harvest capacity in fisheries that are above their fishery capacity goal, a permit consolidation process is needed whereby two or more permits can be combined to allow for the permitting of a single larger vessel. This is not a new concept in restricted access programs elsewhere. The Pacific Fishery Management Council, for example, uses a formula based on vessel length and capacity that allows for combining permits to allow for larger vessels in the groundfish fishery. In the California salmon fishery, vessel length is used by the Salmon Review Board in approving or denying vessel transfer requests for vessels in the 20-to 40-foot range.

Support vessels. In some fisheries, the use of support vessels can substantially increase the available fishing power of the fleet. In such restricted access fisheries with vessel-based permits, only vessels with a permit for that fishery should be allowed to support fishing operations of other permitted vessels. Non-permitted vessels shall not be allowed to attract fish for permitted vessels or to receive fish from permitted vessels for landing. In programs in which the permit is fisherman based, the use of support vessels may be allowed if they do not create significant enforcement problems or significantly add to the capacity of the fishery, but a registration fee may be required that is the same as the annual permit fee paid by a fishery participant.

**POLICY 7.1: Vessels requested to be retired by the vessel owner will no longer be eligible to participate in commercial fisheries in California.**

**7.2: Replacement vessels of the same or lower fishing capacity as the permitted vessel will be allowed only if the permitted vessel is lost, stolen, retired or no longer able to participate as a commercial fishing vessel.**

**7.3: Each restricted access program that allows for vessel permit transfers may allow for vessel upgrades provided a permit consolidation/vessel retirement process consistent with the fishery, capacity goal is made part of the program.**

**7.4: A restricted access program may prohibit the use of support vessels or require that they be permitted in the fishery or that they pay a fee comparable to the permit fee.**

## 8. Harvest Rights

Background. Harvest rights, often called individual transferable quotas (ITQs), involve the assignment of the exclusive rights to harvest a share of the annual total allowable catch (TAC) in a fishery. Harvest rights systems are a form of restricted access programs in that participation in the fishery is restricted to those who own quota shares. Setting TACs has been

a key element in determining quota shares. The State or nation retains ownership of the fisheries resource. In most cases, individual quota systems have been implemented in fisheries with previously established limited entry programs. These individual quotas can be allocated for specific time periods, but most often are allocated in perpetuity. Individual quotas are often allocated for specific geographic areas such as the International Pacific Halibut Commission's zones. Usually, individual quotas are fully transferable (buy, sell, lease) to allow quota owners to optimize their business activities. Transferability of quota shares allows fishermen to move between fisheries. In exchange for this exclusive harvest right, quota owners usually are required to pay the costs of management, enforcement, and research. This cost recovery often leads to increased involvement of industry in research and management.

Harvest rights have usually been allocated to vessel owners. In some fisheries around the world quotas have also been allocated to communities, processors, and fishermen's organizations. Limits on the amount of quota harvest rights each entity can hold are set to prevent excessive aggregation. Aggregation limits currently range from 0.5 percent in Alaska's halibut fishery to 35 percent in some New Zealand offshore fisheries.

Similar management systems have been used to allocate fishing gear units instead of shares of a TAC. A tradable lobster trap certificate program developed by fishermen in the southeastern United States is an example.

When these restricted access policies were adopted (1999) industry comment was negative in regard to harvest rights systems. Nonetheless, these programs have become a tool for managing fisheries in various parts of the world, with the herring-roe-on-kelp fishery in California being one example. This policy acknowledges the existence of this tool as well as the complex issues that must be dealt with in developing any harvest rights program. The Commission may consider recommending development of a harvest rights program after careful consideration of stakeholder input.

The first 15 years of experience with individual quota management has shown that they end the race for fish and provide incentives to fishermen to change their business to maximize revenues and minimize costs. However, individual and community transferable quota systems have been controversial in the United States. In the Sustainable Fisheries Act of 1996, Congress placed a four-year moratorium on implementation of new ITQs and instructed the National Academy of Sciences to conduct a thorough study. In December 1998, the NAS study recommended that Congress end the moratorium.

Numerous issues have arisen when individual quotas are implemented and need to be considered:

1. Allocation of Initial Quotas. This usually, but not always, has been based on historical catches and/or vessel fishing power. The NAS study recommends that alternative methods of initial allocation be considered in addition to catch histories. Who receives the allocations (fishermen, processors, communities, tribes, etc.) must be determined and other issues resolved. Will initial allocation be free? Will the harvest right be for a certain time or perpetuity? Who is and is not eligible to obtain quota?

2. Catch Histories. If initial harvest rights are based to some degree on catch histories, accurate individual vessel or fisherman landing data is needed.

3. Transferability. The degree to which quotas are transferable (buy, sell, lease, "fishing on behalf of") must be determined.

4. Total Allowable Catches. Assuming individual quotas are a percentage of the TAC, in order to determine how much actual quota each quota owner may harvest, a TAC will have to be set. Setting TACs requires high quality resource assessment information and scientifically sound estimates of sustainable yields.

5. Aggregation Limits. Limits on the amount of quota an individual, company, community or other entity may hold needs to be considered, perhaps on a fishery by fishery basis.

6. Enforcement and Monitoring. Emphasis would likely shift towards enforcement methods to prevent quota holders from under-reporting their catches. Methods used elsewhere include increased record keeping/tracking of catches, limiting number of landing ports and increased use of industry-funded monitors at landing ports.

7. Cost Recovery. Most individual quota systems include, at a minimum, methods for having quota owners pay the cost of managing the system.

8. Processor-Fishery Participant Relationships. Depending on who winds up owning the harvest right, this relationship might change. Past experience shows that the quota owner will have increased influence on fishing decisions.

9. Quality Considerations. Early experience with individual quotas shows a consistent trend towards maximizing quality to maximize prices received. This could affect the timing and location of fishing and the other types of regulations needed.

**POLICY 8.1: It is the policy of the Commission that harvest rights systems such as individual transferable quotas may be considered only after careful consideration of stakeholder input. In establishing such management systems, the State should consider: (1) fair and equitable initial allocation of quota shares which considers past participation in the fishery, (2) resource assessment for establishing total allowable catch estimates, (3) fishery participation goals and aggregation limits, (4) cost recovery from quota owners, (5) quota transferability and, (6) recreational fisheries issues.**

#### 9. Administration of Restricted Access Programs

Administration. Administrative costs should be minimized by requiring easily understood regulatory or statutory language including a minimum of exceptions to the main provisions. The use of review or advisory boards may be considered on a program-by-program basis. Board members should be reimbursed for travel and per diem expenses. The total cost for administration of each program should be borne by that program.

The Department will determine what unit is responsible for program administration and make all determinations relating to vessel fishing capacity.

Cost Accounting. Fees collected from restricted access initiatives should, for cost accounting and reporting purposes, be deposited in a single, dedicated Restricted Access

Fishery Account within the Fish and Game Preservation Fund. Charges would be made against the account for direct restricted access program support. A fund condition and activity report should be published annually and include the amount of funds received from each restricted access fishery and the distribution and expenditure of those funds.

Enforcement. Restricted access programs should provide specific disincentives for violations of pertinent laws and regulations. Provision for a Civil Damages schedule, pursuant to regulations of the Commission, can serve in this regard. Because restricted access programs confer benefits to permit holders that are denied to those not in the fishery, penalties should be high for violations of the provisions of restricted access programs.

Restricted access programs should minimize enforcement costs. New technologies such as satellite-based vessel tracking are available and can be required of commercial fisheries that operate under Federal fishery management plans. Commission authority to require such technology, if deemed desirable, should be a part of any legislation or regulation creating a restricted access fishery. Enforcement staff will be responsible for monitoring the vessels and enforcing the pertinent laws and regulations. Enforcement costs for restricted access fisheries should be borne by the restricted access programs.

**POLICY 9.1: Administrative costs shall be minimized and those costs shall be borne by the respective programs. Review or advisory boards may be considered on a program-by-program basis. The programs shall be administered in their entirety within an existing department unit.**

**9.2: Fees collected from restricted access initiatives may, for cost accounting and reporting purposes, be deposited in a single dedicated Restricted Access Fishery Account within the Fish and Game Preservation Fund. A fund condition and activity report should be published annually.**

**9.3: Restricted access programs should provide specific disincentives for violations of pertinent laws and regulations. Enforcement costs of restricted access programs should be minimized through the use of new technologies or other means.**

**Marine Resources Committee (MRC)**  
**2018 Work Plan:**  
**Scheduled Topics and Timeline for**  
**Items Referred to MRC from California Fish and Game Commission**  
*Updated July 5, 2018*

Topic	Category	2018		
		MAR	JUL	NOV
		Santa Rosa	San Clemente	Sacramento
<b>Management Plans</b>				
Abalone FMP / ARMP Update (upon request by FGC)	FMP Development			
Herring FMP Updates	FMP Development	X	X / R	
<b>Regulations</b>				
Sport Fishing	Annual	X		
Kelp and Algae Harvest	DFW Project	X		
Aquaculture - Best Management Practices	DFW Project	X	X	X/R
<b>Emerging Management Issues</b>				
Aquaculture - Existing and Future Lease Considerations	Initial Review	X		X
Box Crab Experimental Fishing Permit Program and Application Criteria	DFW Project		X	
<b>Special Projects</b>				
California's Coastal Fishing Communities	MRC Project	X	X / R	
<b>Informational / Special Topics</b>				
Marine Debris and Plastic Pollution	Informational			
Offshore Wind Energy (BOEM Project)	Informational			
Statewide Marine Protected Areas Monitoring Action Plan	Informational		X	

**KEY: X Discussion scheduled X/R Recommendation developed and moved to FGC**

# California Fish and Game Commission – Perpetual Timetable for Anticipated Regulatory Actions

(dates shown reflect the date intended for the subject regulatory action)

Updated: 07/11/18

For FGC Staff Use				REGULATORY CHANGE CATEGORY	ACTION DATE, TYPE AND LOCATION	2018						2019										
QUARTERLY EFFECTIVE	DFW/RU ANALYST	FGC ANALYST	LEAD			JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	FEB	MAR	APR	MAY	JUN	JUN	JUL		
						17	22   23	20	16	17   18	14	12   13	TBD	TBD	TBD	TBD	TBD   TBD	TBD	TBD	TBD	TBD	TBD
				File Notice w/OAL by	MRC SAN CLEMENTE	FGC FORTUNA	WRC SACRAMENTO	TC FRESNO	FGC FRESNO	MRC SACRAMENTO	FGC OCEANSIDE	WRC TBD	TC TBD	FGC TBD	MRC TBD	FGC TBD	WRC TBD	TC TBD	FGC TBD	MRC TBD		
				Notice Published		06/26/18			08/21/18 08/31/18		10/16/18 10/26/18			TBD TBD		TBD TBD			TBD TBD			
				Title 14 Section(s)																		
MR	JS	WLB	Mammal Hunting (Annual), if needed	TBD		R					N			D		A		V			E 7/1	
MR	JS	LED	Archery Equipment and Crossbow	354(f)							N			D		A		V			E 7/1	
MR	JS	WLB	Waterfowl (Annual)	502	E 7/1		R				N			D		A		V			E 7/1	
KM	SF	FB	Klamath River Basin Salmon Sport Fishing (Annual)	7.50(b)(91.1)	E 8/1		R				N			D		A		V			E 8/1	
KM	SF/ST	FB	Central Valley Salmon Sport Fishing (Annual)	7.50(b)(5), (68), (156.5)	E 7/1		R				N			D		A		V			E 7/1	
MR	JS	WLB	Upland (Resident) Game Bird (Annual)	300			V							N		D					A	E 9/1
MR	JS	WLB	Sage Grouse Preferential Points and Draw	716		A						E 1/1										
KM	SF	FGC	Tribal Take in MPAs	632(b)(33), (34), (97), (98), (112), (117)		A						E 1/1										
*	KM	SF	Rockport Rocks Special Closure	632(b)(17)		A						E 1/1										
*	KM	JS	Incidental Take Allowances for Crabs, other than Genus Cancer, in Trap Fisheries	125.1(c)(3), 126, 126.1					D/A							E 4/1						
MR	ST	MR	Groundfish	TBD		N			D		A	E 1/1										
MS	ST	MR	Recreational Take of Red Abalone	29.15		N			D		A					E 4/1						
*	MR	ST	Repeal State Logbook Requirement for Federal Fisheries	107, 174 and 176		N					D/A					E 4/1						
MR	JS	LED	Deer/Elk Tag Validation	708.6, 708.11		N			D		A											E 7/1
KM	JS	FB	Sport Fishing (Annual)	1.05 et al.		N			D		A	V			E 3/1			R				
*	MR	ST	Herring FMP Implementation	163, 163.1, 163.5, 164					N		D					A						E 7/1
*	KM	SF	Commercial Take of Rattlesnakes	42, 43, 651, 703				E 10/1														
MR	DT	MR	Recreational Purple Sea Urchin (Emergency)	29.11		180 days					EE 11/7											

**RULEMAKING SCHEDULE TO BE DETERMINED**

*	MR		Kelp and Algae Harvest Management	165, 165.5, 704												V						
*			Possess Game / Process Into Food	TBD																		
*		OGC	American Zoological Association / Zoo and Aquarium Association	671.1																		
			Night Hunting in Gray Wolf Range	474																		
			Shellfish Aquaculture Best Management Practices	TBD		V				R												
*	ST		Fisher	670.5																		
*	ST		Northern Spotted Owl	670.5																		
*	ST		Lassics Lupine	670.2																		
*	ST		Tri-colored Blackbird	670.5																		
*	ST		Coastal Yellow Leptosiphon	670.2																		
*			Ban of Neonicotinoid Pesticides on Department Lands	TBD																		
*		MR	Commercial Pink Shrimp Trawl	120, 120.1, 120.2																		
*		MR	Sheephead	TBD																		
*		MR	Ridgeback Prawn Incidental Take Allowance	120(e)																		

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, WRC = Wildlife Resources Committee, MRC = Marine Resources Committee, TC = Tribal Committee