

California Fish and Game Commission Coastal Fishing Communities Project

Revised DRAFT Analysis of Staff Recommendation 1 to “Develop and adopt a policy and definition for coastal fishing communities”

Draft Revised March 10, 2021

Background

In July 2020, staff presented the California Fish and Game Commission (Commission) Marine Resources Committee (MRC) with a draft standardized approach for evaluating and analyzing the staff recommendations contained in [2019 Staff Synthesis Report on Coastal Fishing Communities](#). The approach was presented as a potential structure for staff information-gathering and analysis of each recommendation to help inform MRC consideration of options for potential future action to recommend to the Commission. The approach presented to MRC forms the basis for this staff recommendation analysis, which focuses around four categories: **Basic informational needs, current regulatory and policy context, potential Commission role, and costs and benefits.**

An overview of SR 1, as reflected in the 2019 report, is:

Consider developing a new policy related to coastal fishing communities for Commission adoption. A policy could help clarify how the Commission wishes to consider coastal fishing community needs in decision-making, and the information necessary to help support those decisions. A policy could help flesh out the vision for the role Commission decision-making can play in preserving coastal fishing communities in California. Developing a draft policy is best accomplished in collaboration with stakeholders, tribes and tribal communities, academics, the Department, and other government agencies and jurisdictions that influence the sustainability of coastal fishing communities through their actions.

Analysis

I. **Basic Informational Needs**

Developing a definition of coastal fishing community and a Commission policy would be a near-term effort, relying on qualitative information derived from stakeholder input, existing laws and regulations, and relevant Commission direction as reflected in adopted management documents.

Information at hand: Input by stakeholders and fishing organization representatives on a potential policy was included in original comment letters on the 2019 staff report; the comments have been synthesized as an appendix to the report (table will be attached in final report). Needs for a policy, as identified by stakeholders, include but are not limited to recognizing loss of infrastructure, addressing access issues, and enumerating the pathways between biological and economic sustainability. Commission staff would ideally have more recent input on what stakeholders are interested in including in a policy, which would require additional stakeholder engagement.

Additionally, there are other models that could serve to assist in forming a policy. The Pacific Fishery Management Council (PFMC) Climate and Communities Initiative is an ecosystem-

based fishery management initiative based on the Magnuson-Stevens Fishery Conservation and Management Act's definition and guidance for fishing communities; the initiative has similar goals to the Commission's coastal fishing communities project and is currently active in California. Commission staff, along with staff from the California Department of Fish and Wildlife, the California Ocean Protection Council and the California Ocean Science Trust, as well as California fishermen and other partners, participated in a 2018 workshop as a part of the scoping for the initiative, and Commission staff have continued to confer with PFMC representatives to find ways to harmonize efforts. The most recent activities of the PFMC initiative include a January 2020 workshop in which participants developed a series of climate scenarios and potential fishery impacts. The potential impacts will be discussed at an upcoming series of regional workshops with members of commercial fisheries communities in Washington, Oregon, and California.

Information deficits: Relevant statutes (i.e., California Fish and Game Code, California Public Resources Code), including legislative findings, policies and mandates, need to be identified and compiled; sections of the MLMA and MLPA master plans need to be reviewed and evaluated for potential gaps and inconsistencies in guidance pertaining to coastal fishing community and socioeconomic considerations when developing management actions.

Potential impacts: A policy would likely have a bearing on how other recommendations are pursued. A policy could set a vision for California's coastal fishing communities, which may identify goals and priorities to take into account in any review and possible revision to the restricted access policy (recommendation 2) and how FGC may choose to prioritize potential small scale projects proposed to test new approaches based on alignment of project goals with the policy (recommendation 3). A policy may indirectly affect how staff approaches interagency outreach in support of communities (recommendation 5), fishery flexibility (recommendation 6), collaborative work (recommendation 7), or continued outreach and collaboration with communities (recommendation 8). Because this policy has the potential to impact any or all of the subsequent recommendations, staff believes that action to advance this recommendation, while the prioritization and scoping process for other items is still underway, would be a positive impact.

II. Current Regulatory and Policy Context

MRC actions and context: In November 2019, MRC adopted a stakeholder-developed working definition of "coastal fishing community" for use in the Coastal Fishing Communities Project. As reported to the Commission in December 2019, the working definition is:

"A coastal fishing community is defined as a social, cultural, economic, and/or place-based group whose members are fishermen dependent upon or engaged in commercial, recreational, or subsistence fishing to meet the social or economic needs of the community; this includes, but is not limited to, businesses and organizations that depend on or support fishing by providing goods and services, including infrastructure. A fishing community may be a subset or member of larger or associated coastal communities which have an interest in and/or are dependent on healthy ocean ecosystems."

Adopting a definition is the first part of this recommendation. A policy has not yet been developed, though there have been some internal drafting discussions among Commission staff.

Commission actions and context: Prior relevant policies, including the restricted access policy and the formerly held commercial fishing and packing policy, could be used as references.

The commercial fishing and packing industries policy, adopted around 1993 and repealed in 2006, encouraged "...the development and expansion in all lawful ways of commercial fishing...consistent with the State's policy to provide for aesthetic, educational, scientific, and recreational uses of California's fisheries resources; the necessity of regulating the catch to sustain long term yields, and the development of distant water and overseas fisheries enterprises." Fostering and encouraging commercial fishing so explicitly, through the contemporary lens of the Marine Life Management Act, would be welcome to many stakeholders.

The restricted access policy is considerably longer than the now defunct commercial fishing and packing industries, but also includes language outlining that "...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." Stakeholders may rightfully argue that the "public benefit" is most directly relevant to them, as members of a community that relies on how a fishery is managed and, therefore, this ideal should be more explicitly shifted to their community needs. Any fishing communities policy will most likely affect and be affected by this restricted access policy, as well as non-restricted access fisheries, and outreach to the communities for any drafting process should include representatives from a diverse group of fisheries.

In addition to the Commission's words, there is also the matter of its actions. In 2017, the Commission directed staff to draft and send a letter to the California Coastal Commission in response to requests from fishing community stakeholders who attended the 2016-2018 public coastal fishing communities meetings. The letter urged the California Coastal Commission to consider fishing community infrastructure and economic needs when approving coastal development projects. While such a request does not constitute regulation or policy, it is a prior act that implies values about coastal fishing communities which could be relevant to a new policy. The letter included language about the Commission's desire to "strengthen the shared commitment of our partner coastal management agencies to maximize support for California's coastal fishing communities" and to "preserve and balance California's maritime heritage and economy and its coastal and ocean environments", both of which are statements which could be tenants of a policy.

Statutory context: There is policy embedded in sections of the California Fish and Game Code and the California Public Resources Code that outlines, to a varying extent, the current stance of the institution towards fishing communities, though there is not a specific and explicit policy. Portions on conservation of aquatic resources, offshore fisheries that have become newly accessible, and assorted parts of the Marine Life Management Act include language about fishing community members or fishery participants. While it would take considerable text to describe all the relevant language from policy, there is support for growth of commercial fishery, protection for fishing infrastructure in ports, development of aquaculture, recognition of the importance of fisheries to economy and culture, and a desire to involve fishing community members in research and management concerning fishery resources. A compilation of select relevant parts of code relevant to fishing communities will be attached to the final report.

Further state context: The California Ocean Protection Council 2020-2025 strategic plan includes large, overarching goals and objectives that are relevant to coastal fishing communities. For example, goal one is to “safeguard coastal and marine ecosystems and communities in the face of climate change,” which inherently includes coastal fishing communities. Furthermore, objectives under goal four (“support ocean health through a sustainable blue economy”) include targets specifically bright-lining coastal fishing communities, such as objective 4.1, to “advance sustainable seafood and thriving fishing communities.” While not statutory or regulatory language, the unique position of the California Ocean Protection Council means that its strategic plan indicates a political will and articulates a policy of the state, at least in line with the current administration. Therefore, the strategic plan is an important touchstone for issues currently considered administration priorities. The broader scope of the California Ocean Protection Council, especially its role as an interagency coordinator, may allow it to act with greater speed and breadth of role than the Commission in reference to coastal fishing communities.

Federal context: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) includes a federal definition of coastal fishing community, and includes a series of [national standards](#) for fishery management. National Standard eight defines the federal approach to fishery management relevant to the needs of fishing communities. The Magnuson-Stevens Act definition of a fishing community is “a community that is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew, and fish processors that are based in such communities. A fishing community is a social or economic group whose members reside in a specific location and share a common dependency on commercial, recreational, or subsistence fishing or on directly related fisheries-dependent services and industries (for example, boatyards, ice suppliers, tackle shops).” The standard states that any conservation and management measures must “take into account the importance of fishery resources to fishing communities by utilizing economic and social data that are based upon the best scientific information available in order to: (1) Provide for the sustained participation of such communities; and (2) To the extent practicable, minimize adverse economic impacts on such communities”, recognizing the social and economic importance of fisheries to communities affected by management measures.

III. Potential Commission Role

The Commission has authority to adopt policies to guide its actions and to guide the actions and set the expectations for what the Department brings to the Commission for its consideration. Therefore, the Commission can take action on this item directly within its own authorities. However, this policy may be constrained by the fact that the Commission has only partial jurisdiction over commercial fishing in California, as some restricted access programs fall under the authority of the Department or the California State Legislature. A policy will necessarily have to be coordinated with the Department as it may affect the work of the Department.

IV. Costs and Benefits

Adaptability

How might a policy help support adaptability of coastal fishing communities? Depending on the specific language of the policy, providing for adaptation could be a goal built into the policy. If

the Commission chose to include support for the principle of adaptive solutions for communities, that would provide more flexibility for those communities to pursue adaptable solutions, as well as strengthening their position to propose new approaches and providing support to leverage for pursuing other staff recommendations. However, this would require coordination with the Department and with stakeholders to ensure that any language on fishery or fishing community adaptability is feasible in terms of implementation and enforcement and usefulness for the fishing community. Of course, this is in addition to the anticipated need to make adaptations to the policy itself. Between climate change-driven impacts and changing economic conditions, it would be wise for the policy to anticipate the need to incorporate an adaptive element as new issues emerge and needs are identified.

Consistency

- How might this policy lead to potential changes to current fishery management structures, such as impacts to an existing restricted access commercial fishery program? It may define new policy priorities and objectives that would lead to a review of existing management structures and programs to assess if the structures need to be adjusted in any way in response to the priorities/objectives within the new policy.
- Does this align with or possibly reflect a change to other existing Commission policies? It has the potential of placing greater emphasis on understanding the implications of proposed management actions to not just the stock and the fishery, but also toward socioeconomic impacts at a finer scale – at the community and/or port level.

Accessibility

- Does this increase accessibility of a given fishery, and at what level (e.g., individual fishermen, new entrants, fishery-level, community- or geographic-level)? Has the potential to express policy for providing access at the levels described herein.
- How might this affect the species or fishing community involved? Does it increase engagement of fishing communities, in a manner that does not affect the sustainability of species harvested?

Manageability

A new policy would require the Department to consider the new policy when reviewing projects and developing recommendations, and take the lens of coastal fishing communities, which might increase the time and effort required for a review. Not all fishery information is collected at the smaller scale that a fishing community or groups of fishing communities might necessitate. It could create a data gap that the Department would need to evaluate how to fill regarding collecting and reporting information at the relevant scale. The Department may also have staffing gaps in expertise needed to address socio-economic vitality which will need to be filled.

It would also be important to involve partners in drafting this policy, as any who do not feel represented in the process may take issue with the work of the Commission and Department related to the policy. Having a policy in place would demonstrate to commercial fishing communities that their current and future needs, and very value to preserve for the future, are recognized by the Commission, which might generate greater investment and engagement by communities to assist with management.

Affordability/Investment

Stakeholders have indicated that they believe that developing a policy is a worthy investment. In terms of the investment required to develop the policy itself, the process would require staff time investment on a number of fronts. Commission staff would be the lead on this effort, including the marine advisor, the Sea Grant fellow, and potentially the executive director or deputy executive director. The marine advisor and Sea Grant fellow would likely be responsible for initial drafting and for coordinating efforts to involve partners and stakeholders. The executive director and deputy executive director would be responsible for review and approval of materials and it would require a considerable investment from the marine advisor and sea grant fellow. Developing a policy would require multiple meetings with Department staff and partners, and one or two public workshops. The cost associated with this process would primarily be staff time diverted from other work for both FGC staff and Department staff.

Resilience

If a policy were structured to prioritize resilience, it would require specific actions toward that goal, such as potentially requiring the department to bring changes relevant to these communities to the Commission for consideration. A policy could require the Commission and the Department to give consideration to fishing community needs on project approvals, which may create more space for adaptive and economically beneficial programs to move forward in the fishing community. This additional consideration has the potential to improve both economic prospects and economic and ecological resilience in a broad, general way. However broad, evidence of general support would be useful for commercial fishing communities.

Conclusions

[To be developed]