

Chapter 5. Public Involvement in Fisheries Management

The Marine Life Management Act (MLMA) recognizes that successful marine fishery management is a collaborative process requiring ongoing communication and participation [§7059(a) FGC], so the MLMA seeks to involve all interested parties in marine living resource management decisions [§7050(b)(7) FGC]. More specifically, the MLMA calls for the Department of Fish and Game (DFG) to seek advice and assistance from the public — fishery participants, marine scientists, marine conservationists, and other interested persons — in a variety of fisheries management activities, including the development of fishery management plans (FMPs) and research plans (§7056, §7059, §7060, §7073, §7074, and §7076 FGC). Public involvement is also often called constituent involvement or stakeholder involvement.

The DFG is committed to developing an effective public involvement program and believes that the resulting exchange of information is essential for FMPs to be successful. Meaningful involvement requires being part of the process from the early stage of deciding which fisheries need management plans through the preparation, adoption, implementation, and amendment of those plans (Appendix K). The DFG believes that broad participation in these processes improves the effectiveness and the ability to implement FMPs by:

- Exploring issues, concerns, and management measures from a variety of perspectives;
- Providing an increased understanding of how resources and associated fisheries should be managed from both fishery participant and non-participant perspectives through consensus building and collaborative research;
- Sharing the responsibility for managing sustainable fisheries with all interested persons.

This chapter is intended as a guide to help achieve the goal of meaningful public involvement in the FMP process, and to provide information on the resources needed for full and effective implementation. It suggests the most appropriate approaches to inform, involve, and collaborate with the public.

It is our intent to continue refining the process of public involvement by learning from experience, and future versions of the Master Plan will contain refinements in the methods, activities, costs, and timelines.

5.1 Objectives of Public Involvement

To achieve meaningful, constructive, and effective participation, the DFG believes that it is essential to focus on the following objectives:

- Provide diverse opportunities for constructive participation early in the process of developing and implementing an FMP;
- Provide the necessary resources and personnel to successfully develop and implement a public involvement plan for each FMP. Choose appropriate techniques given the complexity of the fishery and the varying

- levels of public concern and interest, ecological concerns, and legal and jurisdictional issues;
- Provide wide distribution and dissemination of plain language, user friendly, reliable and timely information about FMP preparation processes and related marine resource issues using a variety of communication methods;
- Ensure that public groups are treated fairly in the development and selection of FMP objectives, allocations, and management measures;
- Encourage collaborative fisheries research with fishery participants, marine scientists, and other interested parties;
- Provide a consensus building process that seeks positive and innovative solutions to conflict;
- Develop a dispute resolution process, with established guidelines, that involves all interested parties;
- Provide the opportunity for periodic and regular review, evaluation and amendment of processes and plans.

5.2 Public Involvement In Fishery Management Plans

Each FMP will have a public involvement element to address the approaches most appropriate for a particular fishery. Each plan will identify the public involvement goals, potential activities, and timelines. Public involvement is essential in at least three important areas of every FMP: 1) development of FMP objectives; 2) development and selection of management alternatives to achieve FMP objectives; and 3) development and implementation of a research plan.

5.2.1 Fishery Management Plan Objectives

All FMPs contain objectives which will lead to end products. Public involvement is necessary to identify what end products are desired by fishery participants and other interested parties, such as bigger fish, more fish, improved fishing opportunities, better public access, and greater conservation of resources.

Public meetings and an advisory committee may be utilized to help establish FMP objectives and desired end products. Public meetings will focus on informing the public and receiving comments and recommendations. At public meetings the DFG will present available background information on the fishery (fishery overview), which may include life histories of the species, landings histories, and past regulations, and discuss the potential and limitations of the subject species. An advisory committee may focus on collaboratively developing recommendations and/or building a consensus on the desired outcomes of an FMP.

5.2.2 Management Concepts

Once FMP objectives have been established, an array of potential management concepts for achieving the objectives will be developed. Management concepts may include restricted access (Appendix L), area closures, the use of harvest control rules to

achieve maximum sustainable yield (MSY) or optimum yield (OY), and so on. Public meetings will focus on informing the public and receiving their comments and recommendations. An advisory committee may focus on building a consensus on the preferred management concepts.

5.2.3 Management Alternatives and Proposed Regulations

Once FMP objectives and management concepts have been established, management alternatives are needed. Fishery management plans usually contain several management alternatives and proposed regulations with analyses of their risks and benefits. Since management alternatives and proposed regulations can have great impacts on fishery participants and other interested parties, public involvement in the development and selection of a preferred management alternative and the accompanying proposed regulations is crucial. Public meetings and an advisory committee may be utilized to bring about effective public involvement.

5.2.4 Research Protocols

Each FMP will include a research protocol chapter which will include a research plan. A research plan will describe how the DFG will resolve existing gaps in essential fishery information (EFI) such as abundance, age and growth, total mortality, and recruitment of the species. The DFG is encouraged to participate in collaborative research with others having expertise in marine fishery science, economics, conservation, or a particular fishery. Collaborative fisheries research involves research conducted with the collaboration and cooperation of fishery participants, marine scientists, and other interested persons.

A key to successful collaboration involves using existing expertise in colleges, universities, private institutions and other agencies in all stages of research design, implementation, and evaluation. Successful collaboration also involves fishermen in research design, and in the objective collection and analysis of data. Collaborative research recognizes and values the fishing industry's experience, knowledge and observations. It begins by engaging in the exchange of information and ideas to develop mutual understanding, trust, and innovative approaches to research and management. Additional definitions and descriptions of resources and processes utilized in public involvement activities may be found in Appendix M. (See section 4.6 for more information on research.)

5.2.5 Review Criteria and Levels of Public Involvement

When the DFG begins the process of developing an FMP it will assess the appropriate level of public involvement necessary based upon "review criteria". Review criteria consist of: (a) the level of public concern and interest for involvement; (b) ecological concerns; (c) legal and jurisdictional issues; and (d) resources available to the DFG. This review process will allow the DFG to determine the level of public activities warranted and to optimize available funding, staff, and time. At any point during FMP processes, it may become evident that the next level of public involvement is necessary.

The levels of public involvement range from a Standard Commitment Level to Level III, and are associated with specific methods and activities (Table 5-1). The appropriate level of public involvement will be reassessed throughout the FMP process using the review criteria. Each succeeding level involves greater public participation and includes the methods and activities from the previous level.

Table 5-1. Levels of public involvement and associated methods and activities.	
Public Involvement	Methods and Activities
Standard	Notice of announcement, public notice, fact sheet, public review, questionnaire and comment forms, web site
Level I	Peer review, meetings, workshops
Level II	Advisory committees, consensus building panels
Level III	Formal dispute resolution

5.3 Methods and Activities for Public Involvement

5.3.1 Standard Commitment Level

The Standard Commitment Level for involving the public in the FMP preparation process will include notifying the public of the DFG's intent to develop an FMP, how the public can become involved and comment, and where and when FMP documents will be available.

Notice of announcement

A notice of announcement explains the DFG's FMP preparation process and identifies the opportunities for public involvement. The announcement should be made as early in the process as possible. It should include an address and a telephone number for a contact person to request additional information and allow the public to express interest in opening and continuing dialogue with the DFG. A notice of announcement should take whatever form is most useful for an FMP. Options include direct mail, news releases, radio and television public service announcements, Internet, web site, fact sheets, and newsletters.

Public notification

Public notices may be used to inform the public of specific events throughout the FMP preparation process. These events may include public meetings, workshops, public review and comment periods, and the release of important documents. Public notices can be mailed to individuals on a contact list, announced on radio and television, or published in media chosen to reach targeted public.

Fact sheet

A fact sheet is a brief report summarizing current or proposed activities of an FMP process, and presents technical information in a clear and understandable format.

The purpose is to help inform the public of the status of FMP processes and ensure they understand the issues. In addition to developing generic fact sheets and brochures, fishery-specific fact sheets should also be developed when a significant number of the public appear to be interested or concerned about an FMP. This fact sheet should be sent to persons on the contact list and distributed by any other suitable means.

Important documents

Important documents may include preliminary drafts and the final FMP. The DFG will make these documents available to the public. Other relevant documents may also be made available as appropriate. Documents may be provided in Marine Region field offices, on the web site, and by request.

Informal request for comments

A request for comments is an informal process with a designated time period where comments from the public on a proposed course of action are accepted by the DFG. When requesting comments, the following are considered: (a) provide a reasonable amount of time for comments to be made; (b) include the purpose and objectives for the comments and any draft documents related to the issue; and (c) ensure that all responders are aware that their comments may be summarized and provided to the public.

Formal public review and comment

Formal public review and comment is a formal period, required by law, when the public can review and comment on a draft FMP or proposed implementation regulations developed by the DFG. Documents should be made available to the public for review at least 30 days prior to a hearing on an FMP by the Commission. The public requesting to be notified of the availability of an FMP will be notified in sufficient time to allow them the opportunity to review and submit comments at or prior to a public hearing.

Questionnaire and comment forms

Questionnaire and comment forms may be developed to obtain the public's opinions and concerns about the progress of FMPs. Questionnaires may include questions about many topics related to FMPs. Comment forms provide a forum for the public to express ideas and provide input. Both questionnaire and comment forms may be provided at a variety of venues including distribution to individuals on a contact list, providing them at public meetings, in newsletters, on the web site, and in DFG Marine Region offices.

Newsletter

A newsletter can inform the public on a variety of issues. It may provide updates on FMP proposals under consideration and updates on a project's status. It will announce public meeting dates and provide contact information for personnel working on a particular FMP. The DFG has developed the quarterly newsletter, *Marine*

Management Newsletter, which features articles on the development of FMPs and related public involvement activities.

Contact list

A contact list is an important communication tool which allows an organization to reach broad or targeted audiences with its messages. The better the contact list, the better the public outreach and delivery of information. A well-developed contact list will reach participants that want to be actively involved as well as those who wish to be involved simply by staying informed. The process of developing a contact list begins early in the public involvement effort, and there are many ways to collect names. Other agencies' or organizations' existing contact lists may be used as a starting point. A contact list should be able to provide the public with information in the method they prefer, i.e., via U.S. postal service, facsimile, or electronic mail (e-mail). A contact list may be organized geographically so that different questions could be posed and comments solicited based on potential regional management approaches.

The DFG will develop, maintain, and update a multi-faceted contact list that includes a broad base of the public, such as fishery participants, attendees at public meetings, agencies, organizations, public aquariums, elected officials, relevant media outlets and other organizations' newsletters, and interested individuals. The contact list will be used to send the public announcements of meetings or special events, reports, documents and other relevant information about a fishery, newsletters, information on specific issues and activities, FMPs, and questionnaire and comment forms as appropriate. In addition, it may be used to identify members of the constituency who may be considered for an advisory committee.

Web site

A web site can provide announcements of public meetings and hearings, current information on proposals under consideration, important documents including FMPs, summaries of meetings and other related information about a fishery, and the MLMA. It allows those unable to travel to meetings or Commission hearings a method to remain informed and involved. The MLMA website is www.dfg.ca.gov/mrd/mlma. In addition, the public may add their name to the contact list at this site.

5.3.2 Level I

Meetings and workshops - generally

Meetings and workshops provide opportunities for focused dialogue with the public. The goal is to encourage an exchange of views and open exploration of issues, alternatives, and consequences. Meetings must be preceded by timely distribution of information. The dialogues should occur sufficiently in advance of decision-making to make certain that the public's opinions are considered and to permit response to the public's views prior to DFG or Commission actions. Meetings and workshops should be held at times and places that encourage attendance and participation. Whenever possible, they should be held during non-work hours, such as evenings and weekends, and at locations accessible by public transportation. Some guidelines to follow are: (a) notice should be provided not less than 14 days prior to the meeting; (b) the purpose,

objectives, agenda, date and venue of meetings should be widely distributed; (c) the use of a facilitator should be considered; (d) agendas should clearly indicate when oral and/or written statements from the public may be made; and (e) a summary record of discussions at public meetings and workshops will be provided when requested.

(a) Public meeting

A public meeting provides the public an opportunity to become informed, ask questions, and make comments and recommendations. The purpose is to inform the public about ongoing activities, to discuss issues, and to receive input. Subject experts should be present to provide information and answer specific questions. The public making comments should try to be as concise as possible to avoid repeating comments made by others. The time available for each person to make comments will depend on the number of people who wish to speak at the meeting and the time constraints.

(b) Workshop

A workshop is a form of public meeting that may include presentations and exhibits but ends with discussion, comments, and recommendations. The DFG may hold statewide and/or regional workshops. A statewide workshop may provide a forum for dialogue among DFG staff and the public. After some of the statewide fishery issues have been discussed, it may be useful to hold regional workshops.

(c) Small group meeting

The purpose of a small group meeting is to inform invited public of FMP activities, discuss specific issues, receive comments and recommendations, answer questions, and clear up any misconceptions or misunderstandings. Small group meetings also help to develop the DFG's sensitivity to public concerns, get 'first-hand' information from interested public, and establish rapport and a good working relationship with the public.

5.3.3 Level II

Advisory committee

An advisory committee is a group of the public (representing diverse public interests) and subject matter experts assembled to provide suggestions, advice, feedback, and recommendations to the DFG and/or the Commission. Advisory committees may help to provide more broadly supported input, a fair and effective process, and establish a rapport and good working relationship with the public. Other common names include Task Force and Citizen Advisory Board.

Consensus building

Consensus building refers to a range of processes used to foster dialogue, clarify areas of agreement and disagreement, and resolve controversial issues. Consensus building is a voluntary process in which the participants seek a mutually acceptable resolution to a defined issue or problem. The basic steps to consensus building include the following:

1. Involve all parties that can implement or block a decision.
2. Obtain participants' agreement on the process structure and goals.
3. Obtain participants' agreement on the definition of the problem.
4. Identify and communicate participants' interests by sharing information.
5. Participants identify potential solutions, develop evaluation criteria and obtain agreement.
6. Reconcile different perspectives when possible.
7. Communicate with broader interests throughout the process.
8. Implement decisions that address real concerns and perspectives.

People involved in making decisions regarding marine resource management issues know that conflicts naturally exist. Individuals and groups have different perspectives and different needs. When handled constructively through consensus building, differences can develop into positive and innovative solutions with broad support and effective implementation.

Panel

A panel is a group of experts assembled to debate or provide comments and recommendations on specific issues. After panel presentations there may be a period of discussion between the panel members and the audience. Outcomes may include summary recommendations.

Public hearing

A public hearing is a formal hearing organized by the DFG and/or the Commission and is open to all the public. The purpose is to provide an opportunity for formal comment and testimony. All testimony received becomes part of the public record. The DFG and/or the Commission will hold at least two public hearings prior to

the adoption or rejection of an FMP. The first hearing must be held within 60 days of the Commission receiving a Draft FMP.

5.3.4 Level III

Dispute resolution

Dispute resolution is a method to improve communication among parties in order to better identify options that satisfy different interests and values. The goal of dispute resolution is a negotiated agreement that may be binding on all participants. Because fishery management issues are very complex, the MLMA encourages the DFG and the Commission to work with dispute resolution specialists and to develop dispute resolution processes appropriate to each element in the fishery management process (Appendix N).

5.4 Opportunities for Involvement

There are numerous opportunities for public involvement and comments during FMP and regulation processes (Fig. 5-1).

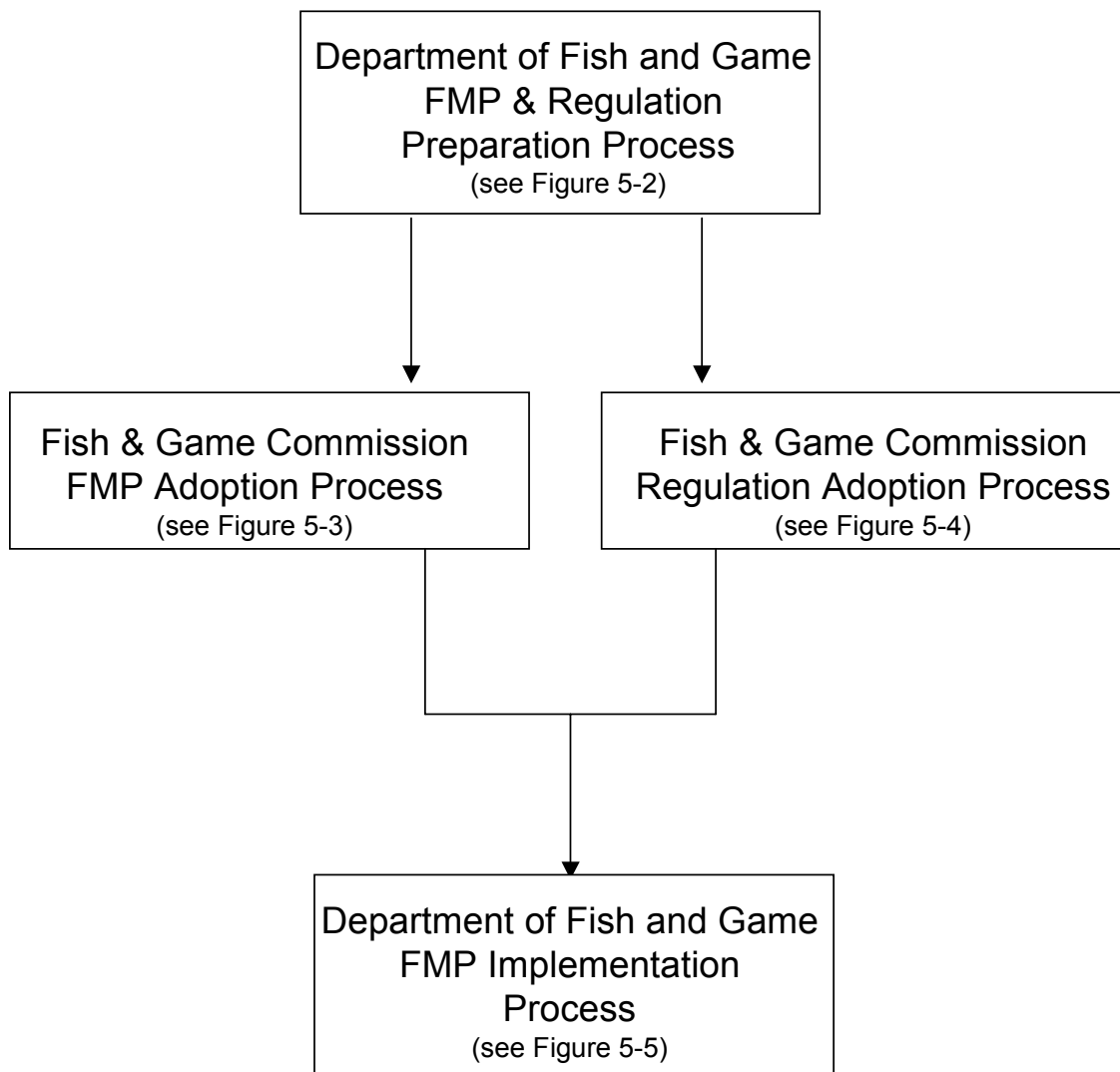


Figure 5-1. Overview of fishery management plan (FMP) and regulation processes. See Figures 5-3 through 5-5 for illustrations of opportunities for public involvement in each of these processes.

5.4.1 Fishery Management Plan and Regulations Preparation Process

The DFG is the lead for all activities during the preparation of an FMP and regulations. There are numerous opportunities for comments to be made to the DFG, with public involvement ranging from Standard Commitment Level to Level III (Fig. 5-2). An FMP and associated regulations must be made available to the public at least 30 days before a hearing by the Commission.

The DFG is committed to ensuring that all interested members of the public are able to participate in the preparation of FMPs by scheduling meetings in a variety of locations, on various days of the week, and during convenient times of the day. All meetings, special events, and important documents associated with an FMP are posted on the DFG's Marine Region web site at www.dfg.ca.gov/mrd/index.html. The DFG also places public notices in local newspapers, and makes public announcements on local television and radio stations.

An FMP is considered to be a functional equivalent of a California Environmental Quality Act (CEQA) document. The CEQA process requires that the DFG prepare a Notice of Preparation (NOP) for review by state agencies when they first begin the process of developing an FMP. The NOP commenting period is 45 days. During this time, other state agencies may make written comments to the DFG about what should be included in an FMP. (See section 2.3.1. for more information on the FMP preparation process.)

5.4.2 Fishery Management Plan Adoption Process

When the DFG submits a Draft FMP to the Commission, a formal comment period is initiated. During this period, the Commission is the lead for all activities. There are numerous opportunities for comments to be made to the Commission by the public (Fig. 5-3). The Commission will receive written and verbal comments at a minimum of two public hearings. (See section 2.3.2 for more information on the FMP adoption process.)

5.4.3 Fishery Management Plan Regulations Adoption Process

When the DFG submits a Draft FMP to the Commission, it also submits Initial Regulatory Documents (Fig. 5-4). These include proposed regulations, an initial statement of reasons, a public notice, and a rulemaking file. The public notice is sent to people on the DFG's and Commission's active mailing lists. It is also published in the California Regulatory Notice Register, which is available through the Office of Administrative Law (OAL) in Sacramento. The table of contents of each issue is also available at their web site (www.oal.ca.gov). The rulemaking file must be made available for public review. This file may be obtained from the Commission or others mentioned in the public notice.

The basic regulatory process takes about 140 days. The Commission may not adopt proposed regulations until 45 days after the public notice. During this comment period, the public may submit written comments to the DFG or Commission. The Commission generally must hold one public hearing before adopting regulations (Weber and Heneman, 2000).

Department of Fish and Game FMP & Regulation Preparation Process

Public involvement:

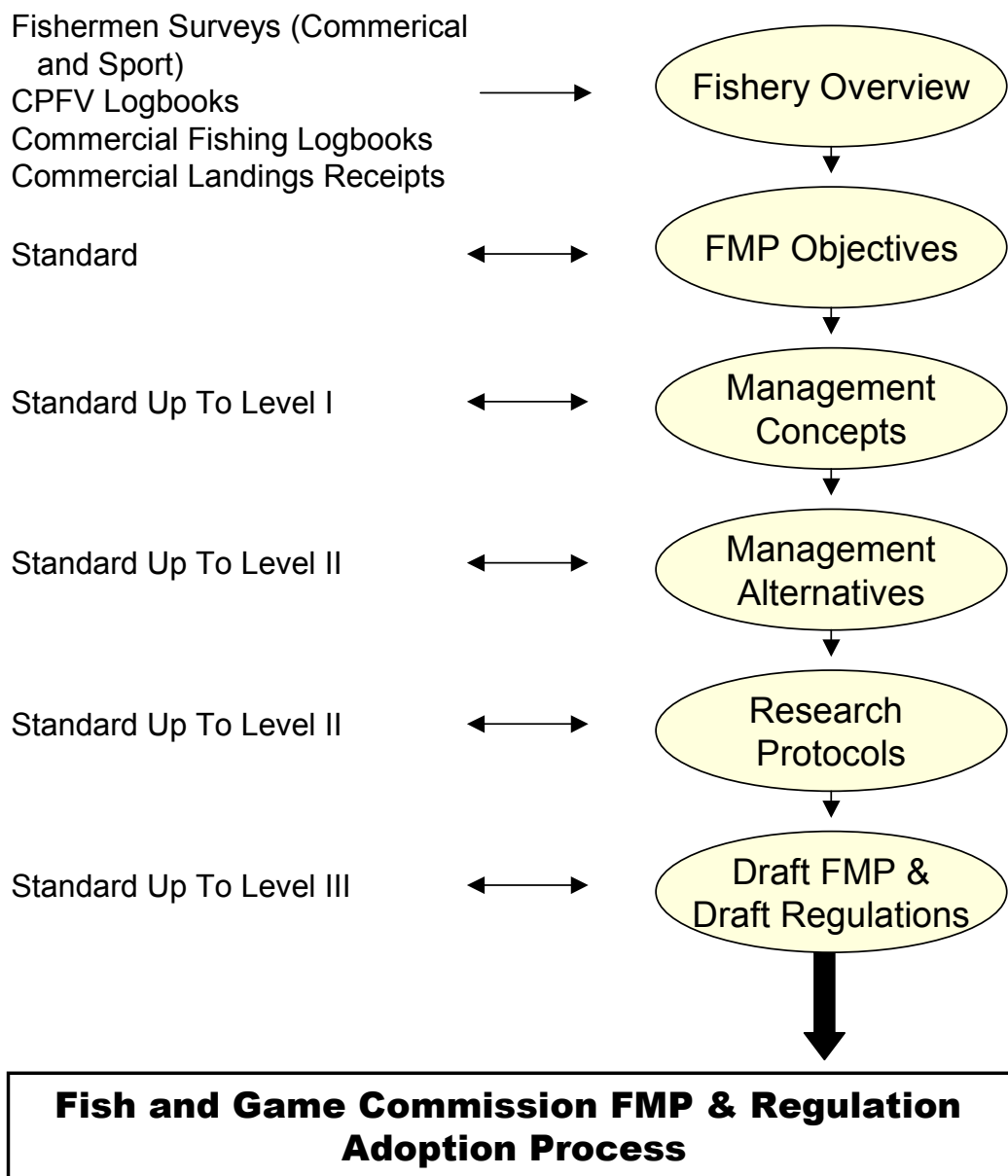


Figure 5-2. Illustration of opportunities for public involvement during the fishery management plan (FMP) and regulation preparation process. See Table 5-1 for definitions of the different levels of public involvement. Written comments may be submitted at any time.

Opportunities for public involvement

Fish & Game Commission FMP Adoption Process

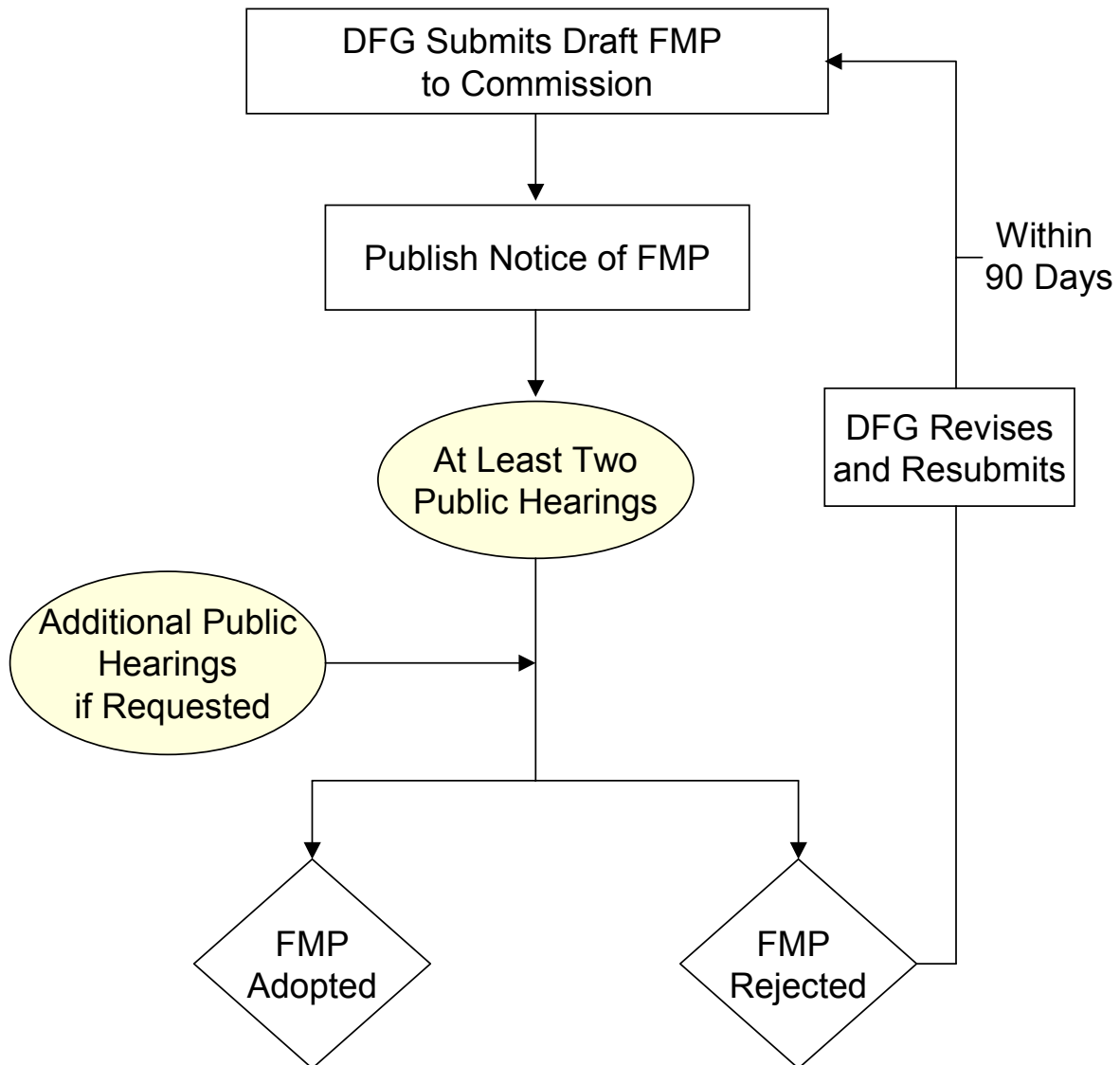


Figure 5-3. Illustration of opportunities for public involvement during the Fish and Game Commission fishery management plan (FMP) adoption process. Written comments may be submitted at any time, up to adoption by the Commission. DFG = Department of Fish and Game

Opportunities for public involvement

Fish & Game Commission Regulation Adoption Process

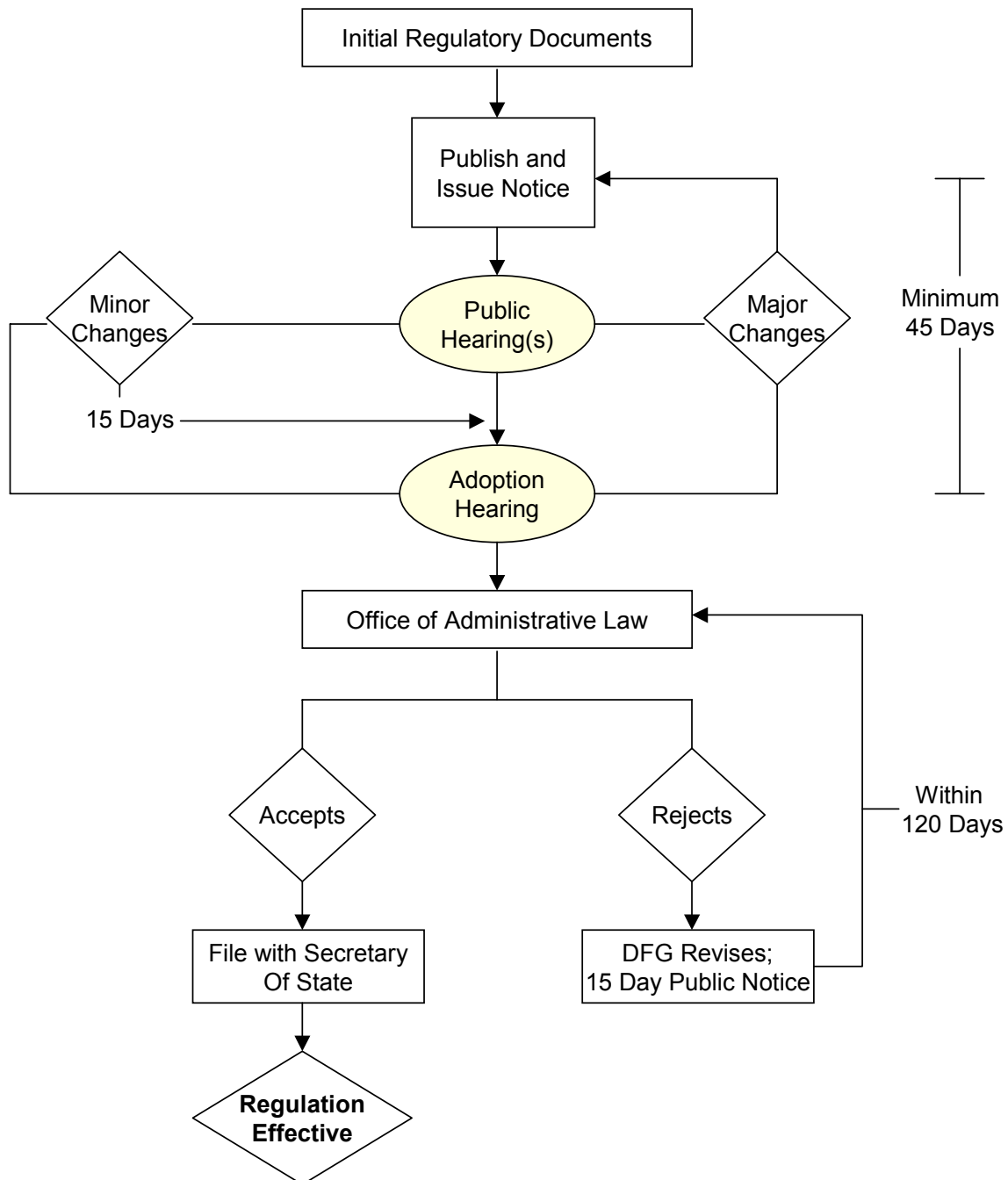


Figure 5-4. Illustration of opportunities for public involvement during the Fish and Game Commission regulation adoption process. Written comments may be submitted at any time, up to adoption by the Commission.
DFG = Department of Fish and Game

Opportunities for public involvement

If public comment or other information leads the Commission to make changes in the proposed regulations, there is another 15-day comment period on the revised regulations. However, If the Commission makes substantive changes to the proposed regulations, it must issue a new public notice and allow another 45 days for comment.

Once the comment period is closed, the DFG and Commission must submit the final rulemaking file to OAL, which has 30 days to review the file. If approved, the regulations are sent to the Secretary of State, published, and become effective within 30 days. If the OAL disapproves the regulations, the DFG must revise and resubmit the document to OAL within 120 days. Any revision must also allow for a 15-day comment period.

5.4.4 Fishery Management Plan Implementation Process

The DFG is the lead for all activities during the implementation process. Public involvement generally occurs during the collaborative efforts of monitoring and research, and in the review and evaluation of the implementation process (Fig. 5-5). The complexity of an FMP will determine the level of public involvement needed for implementation. The DFG will keep the public informed throughout the process through printed media, Internet, advisory committee meetings, and personal contacts. (See section 2.3.3 for more information on the FMP implementation process.)

5.5 Commenting Guidelines

The public may provide both verbal and written comments at public meetings during the FMP and regulations preparation process. These comments will not be recorded verbatim, but will be summarized. All comments are part of the public record, and will be made available to meeting participants and the public upon request. They may also be available on the DFG's web site.

Verbal comments at meetings may be made by simply signing up and providing the name, address, and telephone number of the commenter. Verbal comments may also be made over the telephone and in person to DFG personnel.

Written comments may be sent to the DFG by U.S. postal service, facsimile, electronic mail (e-mail), and hand delivery. Contact information for each FMP will be available on the DFG's Marine Region web site at www.dfg.ca.gov/mrd/index.html. In addition, comments may be directed to:

California Department of Fish and Game
Marine Region Headquarters
20 Lower Ragsdale Drive, Suite 100
Monterey, CA 93940
Telephone (831) 649-2870
Facsimile (831) 649-2894.

Written comments should be submitted with the author's complete name, mailing address, and telephone number. By providing this information, DFG personnel may contact the person to discuss or clarify concerns and comments.

Department of Fish and Game FMP Implementation Process

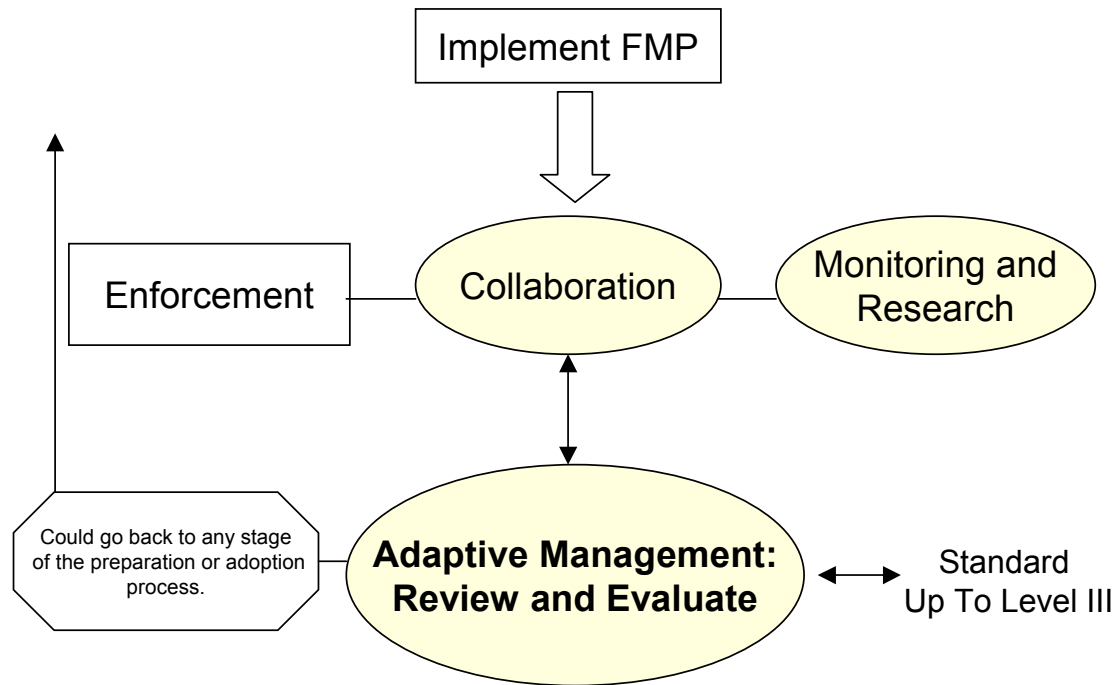


Figure 5-5. Illustration of opportunities for public involvement during the fishery management plan (FMP) implementation process. Written comments may be submitted at any time.

Opportunities for public involvement

The public may also provide comments during the FMP and regulations adoption processes. Groups or individuals wishing to speak at a Commission meeting about a topic already on the agenda can simply sign up at the meeting by providing their name, address, and telephone number. Ideally, organized groups should identify one spokesperson. Speakers should try to be as concise as possible to avoid repeating comments made by others. The time available for each person to make comments will depend on the number of people who wish to speak at the meeting.

Written comments received at least 30 days before a Commission meeting will be distributed to each commissioner and appropriate staff before the meeting. Comments may be mailed to:

California Fish and Game Commission
1416 9th Street, Room 1320
Sacramento, CA 95814
Telephone (916) 653-4899
Facsimile (916) 653-5040.

Comments may also be e-mailed with the commenter's name and address directly to: skoell@dfg.ca.gov. Please be aware that due to the high volume of questions and requests the Commission receives, they unfortunately are not able to answer every message personally, but will take all thoughtful and constructive comments into consideration.