

**Nearshore Fishery Management Plan (Draft May 9, 2002)  
Letters, E-mails, FAXes, and Material Handed-in at Public Meetings  
Received after June 29, 2002**

The following written comments were received:

| Writer                                | Comment  | Response  |
|---------------------------------------|--|---|
| LETTERS                               |  |   |
| Letter-29<br>Fred Oakley<br>Henry Kau |  |   |
| C-1                                   | With pending MLPA to take effect, no fishing within 1000 feet from most preferable shoreline along with other restrictions, what good is a license? Surf fishing is a very unique and a tedious sport, but there are those who embrace this method of fishing. | Writer appears to be expressing opposition to the recommended management option. Marine Protected Areas (MPAs), especially marine reserves as described in the NFMP Section 1, Chapter 3, where no take is allowed, are uniquely capable of eliminating many risks to the sustainability of fishing and to conserving ecosystems and habitats. None of the other management measures in the NFMP are specifically directed at the protection of habitats and fish nurseries. Without the addition of MPAs, the NFMP does not fully meet all of the criteria specified by the MLMA. The NFMP, however, does not specify the placement, size and function of MPAs along the coast. That process is being directed by MLPA and tracked by the NFMP management team to guarantee compliance with the needs of nearshore fish. Although MPAs are not a 'cure-all' for every nearshore problem, they are the single management measure that guarantees the preservation of adequate and appropriate habitat for the regeneration of depleted nearshore fish stocks. For this reason, the Department supports the MLPA process as one of the fundamental elements in a broad management framework. The use of marine reserves in a comprehensive management program, while potentially eliminating or reducing fishing effort within certain MPAs, is not meant to eliminate fishing coastwise. Marine reserves will be developed through the MLPA process which involves regional working committees to help develop recommendations for placement and designations of reserves. Your comments are included in the administrative record of proceedings and will be provided to the Commission for its consideration. |
| C-2                                   | They should have put a size limit on the perch. Since the barred perch is the specie mostly caught, minimum size of 10 inches should be set.   | There are currently 19 species of nearshore fish stocks defined under CCR, Title 14 §1.90. These fish are harvested by recreational and commercial fisheries and are designated as nearshore species originally provided in the Nearshore Fisheries Management Act on the basis of finfish being found primarily in rocky reef or kelp habitat in nearshore waters. Kelp bass have been reserved by law for use by recreational fishermen since 1953 and have been managed on a sustainable basis for several decades. Surfperch occupy primarily sand  |

| <b>Writer</b>  | <b>Comment</b>   | <b>Response</b>   |
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|  |  | substrate habitat. The Commission has authority to adopt size limits of marine fish as needed. Your comments are included in the administrative record of proceedings and will be provided to the Commission for its consideration.   |
| C-3  | On the subject of limits, I have yet to see the reasoning of invertebrates limit of 50 sandcrabs. I see the reasoning of 50 rock crabs for consumption by an individual, but classifying the sand crab (bait) the same way is not apparent to me.  | Consideration of Invertebrates, including sand crabs, is not included in the NFMP. The Commission has the authority to adopt bag limits as needed. Your comments are included in the administrative record of proceedings and will be provided to the Commission for its consideration.   |
| C-4  | On the subject of closures, I believe the state of Hawaii have periodic closures (3-5 years) in specific areas, then reopened after those closure period. I'm sure that this process is continued and I can see the protesting by the commercial sport fishing industry in California to such an idea. | Marine reserves will be developed through the MLPA process. The Commission does have the authority for time and area closures. In addition, please see response to comment 1 above.   |
| <b>Letter-30<br/>Robert and<br/>Karen<br/>Cunningham</b> |  |   |
| C-1  | We are writing in the hope of having our nearshore permit reinstated, as not being able to participate creates a financial burden...When we purchased our 2000-2001 license and NFP there was no mention that we were not going to be eligible for NFP in 2001-2002.                                   | The comment is referring to the need to have met qualifying criteria to be able to qualify for a permit in 2001-2002. Applicants denied permits under authority of the Commission, may appeal denial of a permit.   |
| <b>Letter-31<br/>William J.<br/>Douros</b>               |  |   |
|  | Letter is a duplicate of FAX-3.  | Please see responses to FAX-3.  |
| <b>Letter-32<br/>Tom Raftican<br/>and Bob Osborn</b>     |  |   |
|  | Letter is a duplicate of Handed-in material-16.  | Please see responses to Handed-in material-16.  |
| <b>Letter-33<br/>Chuck<br/>Blackburn</b>                 |  |   |
| C-1  | The northern area, which should be from the 40/10 line just south of Cape Mendocino to the Oregon border, has very different fish compositions and fishing opportunities than the rest of the State. We must be allowed to tailor our management to these opportunities.                               | The writer may be expressing support for Alternative 5 (Four Regional Management Areas): Four management regions is now the preferred alternative for regional management. Alternatives with more than four regions are not being considered because of the increased costs and staffing needs that would be required to administer these regions. Information on the four regions is found in Section II, Chapter 3, page 151.   |
| C-2  | This area's weather provides a natural limiting effect on the number of days that fishermen can work on the water.   | Writer may be expressing support for Alternative 1 (No Project) would continue the current regulations. It is true that there are many regulations at work in marine fisheries. The NFMP hopes to bring a broader perspective to nearshore management by using a scientific basis and well disciplined approaches to allocation, restricted access, and marine protected areas on a regional basis. Size and slot limits have their place in fishery management, but they are difficult to enforce. |

| Writer                          | Comment   | Response   |
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|                                 |   | Visualizing large populations of fish while fishing at the known habitat sites off the coast is not a proven technique for understanding the true vulnerability of species populations. Therefore, broad management goals with localized, regional management and annual research in stock assessment, mortality, age, and growth is the preferred option of the NFMP.   |
| C-3                             | This weather is also going to limit on the water survey work that is required to establish the multi stage levels of management envisioned by the NFMP. We need room in this plan to find other ways to survey stocks in our near shore.                          | Both fishery-dependent and fishery-independent research techniques address the data gaps outlined in Section I, Chapter 4, Research Protocols. They provide complimentary sets of information, and one single source cannot function independent of the other for providing essential fishery information. It is recognized that certain shallow-dwelling, cryptic species may not avail themselves to visual scuba surveys. For those species, the NFMP outlines the need for complementary sampling techniques such as standardized hook-and-line or trap studies. However, scuba or ROV surveys often provide the only source for information on ecological interactions and community structure, as well as a non-fishery biased source of species composition and size information. |
| C-4                             | Some species of near shore stocks were untargeted here in the past. Both Cabazon and Kelp Greenling were discard species until the live market reached this area in 1998. The Commission must consider these local variations when setting TACs in this area.     | Total allowable catch and allocation will be done regionally as information becomes adequate. The years that were selected for the calculations of MSY/OY and allocation were but one of several different possible combinations of years that were presented to the Commission during their consideration of the interim management measures. In contrast, in the NFMP, the preferred options for the harvest guidelines and allocation indicate that the calculations also will use the best data available, but no years are specified. The CALCOM and MRFSS data presented in the NFMP are at this time considered to be the best available commercial and recreational data for calculating the TACs and the allocations.   |
| C-5                             | These fisheries are and have been an important source of income for our community. The reductions of these fisheries have already changed our communities self image and cash flow. We need to restore as much of the fishery that can be supported by the ocean. | The MLMA charges the Commission and the Department with providing for sustainability of the resources while preventing overfished stocks which would lead to a total collapse of the commercial nearshore fishery. The overriding constraint for recreational and commercial fisheries is the health, resilience, and sustainability of the stocks. MLMA expressly identifies as an objective that, to the extent practicable, the fishery management system observe the long-term interests of people dependent on fishing for food, livelihood, or recreation, and that the adverse impacts of fishery management on small-scale fisheries, coastal communities, and local economies are minimized.  |
| <b>Letter-34<br/>Brian Entz</b> |   |  |
| C-1                             | I urge you to protect California's marine wildlife by continuing the closure until the state can permanently exclude set gill nets from its coastal areas.  | The writer is referring to an emergency closure of gill nets in the central coast. The emergency closure became permanent in September 2002.   |

| Writer                            | Comment   | Response  |
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| Letter-35<br>Stephen G. Benevides |   |   |
|                                   | Letter is a duplicate of Letter-18.   | Please see responses to Letter-18.  |
| Letter-36<br>Dick Young           |   |   |
| C-1                               | California should be divided into four districts, Southern district, South central, North central and northern district.              | Please see response to Letter 33, Comment 1 above.  |
| C-2                               | Where there is a statewide quota (specifically sea trout and cabezon) it should be divided equally between Nearshore license holders. | The Department agrees that Individual Fishing Shares (IFS) may be an appropriate management tool for this fishery. However, issues with joint jurisdiction with the PFMC and the federal moratorium on Individual Transferable Quota systems make implementing an IFS program impossible at this time. Although an IFS program will not be implemented right away, the Department does believe that IFS can be a valuable tool to limit commercial effort in the nearshore fishery. The framework approach of this plan recognizes the need to integrate all the elements: fishery control, MPAs, restricted access, regional management, and allocation to manage the nearshore species. Restricted access is undergoing a separate but parallel rulemaking process. Coordination of establishing MPAs and restricted access may not be implemented at the same time, but will be closely coordinated. |
| C-3                               | Sea trout should be raised to a 14" minimum size.   | The NFMP is designed and written to be a framework document. Each of the recommended and alternative management strategies in the NFMP relies on a 'toolbox' of general management tools already in use by the Commission. All of the comments for specific management measures, such as size limits, slot limits, monthly closures, limitations on traps, line gear, and other gear are measures available to the Commission to use to achieve the goals of the NFMP. Please see Section II, Addendum 5, pages 208-213. Two concerns with any management measure based on size is the need to have reliable maturity information on a species (and this can vary geographically) and the potential mortality of undersized fish returned to the water.   |
| C-4                               | Drop down another 2 years on the eligibility for this license.  | The Department has proposed a nearshore restricted access program for the nearshore fishery. This program proposes some significant limitations on the number of participants, as well as limiting the types and amount of gear allowed. The nearshore fishery restricted access program also proposes a gear endorsement program to allow some permittees to use other gear types that they have traditionally used. The restricted access program is undergoing a separate but parallel rulemaking. Your comments are included in the administrative record of proceedings and will be provided to the Commission for its consideration.  |
| C-5                               | The sport fishermen I have talked to are not happy fishing in 120' or less. They do not   | Appears to be a comment related to the closure by PFMC of fishing for shelf species of rockfish.  |

| Writer                            | Comment   | Response   |
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|                                   | want to catch Chinas, Gophers, Black and Yellows, and Sea trout. They throw them back and most of them die because they were brought up too fast or mishandled.   | The effects of the shelf closure on nearshore management is not entirely clear, but some expected impacts such as effort shift in to the nearshore fishery will likely increase the risk of overfishing the nearshore stocks. Since the shelf closure will not fundamentally change the allowable amount of fish that can be safely taken from nearshore stocks, there does not appear to be any compelling reason to increase the allowable nearshore catch in response to the current shelf closures.  |
| C-6                               | If you restrict sports too severely you will really hurt the coastal communities that rely on campers, tourists, fishermen, divers and so on. It has a domino effect on many businesses.  | Please see response to Letter 33, Comment 5 above.   |
| C-7                               | Some of the answers would be better enforcement of the fish and game laws.  | Comment noted. The MLMA expressly contemplates using nearshore permit fees to help fund enforcement of laws applicable to the nearshore fishery.   |
| C-8                               | It has been years since we have had fish counters in Albion so I am wondering how fish and game come up with their numbers on how many seatrout and cabezon are actually caught by sports fishermen.  | Section I, Chapter 4, Research Protocols, identifies the data gaps related to recreational sampling and outlines a strategy (Appendix K) and timeline to address these issues. Details on recreational sampling improvements will be worked out during the implementation of the FMP. In addition, currently there is a pilot program to increase the number of samples taken by MRFSS in southern California to address some of the information gaps mentioned by the writer.   |
| C-9                               | The answer to this (newspaper report regarding discards of groundfish) is to make the dead fish part of their quota.  | The Department understands that the calculation of by-catch and wastage from both fishing sectors is a complex problem that involves management and enforcement, as well as compliance from sport and commercial fishermen.  |
| <b>Letter-37<br/>John Henry</b>   |   |  |
| C-1                               | Regulators want to ban rockfish fishing because of their stupidity.   | This comment does not appear to address the NFMP or implementing regulations, rather the comments refer to regulations adopted last year to conform to PFMC management on bocaccio and other shelf species. The recent actions by PFMC are considered necessary to conserve the shelf rockfish resources and to prevent collapse of those stocks.  |
| <b>Letter-38<br/>Chris Miller</b> |   |  |
| C-1                               | I am writing to bring to your attention to what we believe to be a significant error in the Nearshore Fishery Management Plan. On page 204 of the NFMP under a section on commercial bycatch it states, "The spiny lobster fishery target fishery took the highest percentage of California sheephead bycatch (39.7 percent)." We request that this language be taken out of the NFMP or be subjected to some rigorous statistical analysis to verify it. | Several fishermen expressed concerns over the Department's review of bycatch information and the difficulty in accurately discerning the difference between co-occurring legal catches, and bycatch of nearshore species in other fisheries. As a result, the bycatch section of the NFMP has been revised to include the following text: "All the landings of nearshore market categories recorded with salmon, crab, spiny lobster, and prawns may not be bycatch. For this analysis, a trip (or landing) was defined as all receipts from one boat with the same date of landing. During a trip, several gear types may |

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|                                       |   | <p>have been used. Consequently, it is not possible to distinguish between poundage that was bycatch and poundage that was taken with different gears on the same trip. For example, a boat landing spiny lobster (taken in lobster traps) on the same day as California sheephead (taken in finfish traps) would be considered as one landing. The averages provided in Table A for these fisheries should therefore be viewed as a summation of both bycatch and catch from multiple gears." During the implementation of the NFMP the Department will be trying to work closely with the constituents to improve our monitoring of landings, and data collection, to get a clearer picture of landings in all involved fisheries and look forward to working with the fishermen on these and other issues.</p> |
| C-2                                   | <p>Why was no one consulted who had any field experience or seniority in the management of the fishery.</p>   | <p>The change provided in Section I was developed with field staff input to response to comments received during the May 9-June 29 public comment period.</p>   |
| C-3                                   | <p>We are requesting that the department supply us with a written explanation of the methodology that developed this assessment of sheephead bycatch.</p>                                       | <p>Please see response to Comment 1 above. Originally, a review of the landing receipts for both the California sheephead and lobster trap fisheries was done which resulted in the information provided in the NFMP May 2002 versions. Subsequent analysis of landing receipts, trap permits, and finfish trap permits was performed to separate some of the conflicting information provided on the receipts.</p>   |
| <b>E-MAILS</b>                        |   |   |
| <b>E-mail-41<br/>Mark Wagner</b>      |   |   |
| C-1                                   | <p>I would recommend an 80% reduction in the take of bait fish for the next 5 to 10 years. This would help not only the over fished species but the endangered ones as well.</p>                | <p>The recommendation presented in this comment appears to be based on recent federal actions and proposed actions by the PFMC. The Department is not recommending management of bait fish, however, as part of the Nearshore FMP. The NFMP is based on a group of species mandated under the MLMA (nearshore rocky reef fishes. In any event, the writer's recommendation will be presented to the Commission as part of the response to comments document. Finally, the Department appreciates the commenter addressing concerns relevant to Nearshore ecosystem components – these will be addressed more fully in Stage II and III of the Fishery Control Rules.</p>  |
| <b>E-mail-42<br/>Mark Wagner</b>      |   |   |
| The E-mail is a duplicate of E-41.    |   | Please see response to E-mail 41 above.   |
| <b>E-mail-43<br/>Richard P. Young</b> |   |   |
| C-1                                   | <p>Even though our fishery management biologists tell us there is not enough fish for a year-round recreational fishery, we are still commercially harvesting the same fisher! How is this?</p> | <p>The comment appears to address the interim management measures adopted by the Commission in December 2000 and possibly recent actions by the PFMC. The MLMA provides that fishery management plans shall allocate increases or restrictions in fishery harvest fairly among recreational and</p>   |

| Writer                                       | Comment  | Response   |
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|  |  | <p>commercial sectors participating in the fishery. Furthermore, the NFMP states that generally it is the policy of the State to assure sustainable commercial and recreational nearshore fisheries, to protect recreational opportunities, and to assure long-term employment in commercial and recreational fisheries [FGC §7055 and §7056]. The Department believes that implementation of the recommended options will result in a sustainable nearshore fishery for both recreational and commercial sectors. An important element of the Department's preferred options in the NFMP is a restricted access program for the commercial nearshore fishery. This program will better match the size of the commercial fleet to the available resource, thus reducing the potential for overfished stocks while allowing a small, responsible commercial fishery to exist in California.</p> |
| C-2  | In fact the quota for that commercial fishery has actually increased!  | <p>The recommended allocation approach does not address issue of reallocation of shares of fish among sectors. Any decisions to reassign shares from one sector to another would occur at the discretion of the Commission which has management authority for nearshore fish. The issue of "reallocation" occurred in the fall of 2001 when projections of take for cabezon and greenlings indicated the recreational sector would not reach its portion of the OY for those species. Because the OY developed for the 2001 fishery year was felt to be sufficiently precautionary, the Commission opted to manage on the total allowable take level.</p>  |
| C-3  | Now, I'm told, they want more. They are planning to ask the council to reallocate the total harvest level for over 200% quota increase for the nearshore commercial fishery in 2003!   | <p>The comment appears to be related to potential actions by the PFMC.</p>   |
| <b>E-mail-44<br/>Charmaine<br/>Gallagher</b> |  |  |
| C-1  | The Commission does not have the best available science if it makes references to the nearshore waters north of Point Conception (Humboldt Current) based on assessments completed south of Point Conception (Southern California Bight).              | <p>The managers of Department are required by MLMA to make decisions and recommendations to the Commission based on "best available scientific information that is available, on other relevant information that the department possesses, or on such scientific information or other relevant information that can be obtained without substantially delaying the preparation of the plan." In addition, MLMA allows for increasing knowledge to be used for adaptive management</p>  |
| C-2  | There is no plan for: 1) re-assessment of over-restrictive or un-substantiated management policies, 2) modification as science becomes available, 3) amendments to this regulation experiment, or 4) action on this fishery closure beyond April 2003. | <p>The plan indicates that "The ability to measure rates of change over relatively short time periods makes it possible to employ rates of decline as a Control Rule criterion." The key is the use of "rates of change." While "decline" is mentioned, it is implicit that "increases" would also be used. The MLMA allows for increasing knowledge to be used for adaptive management.</p>   |
| C-3  | Identify the financial, economic and social impacts to communities threatened by these   | <p>Please see response to Letter 33, Comment 5 above. In addition, The environmental document</p>  |

| Writer | Comment   | Response   |
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|        | closures.   | (NFMP Section II) is intended to fulfill CEQA obligations, and as such is limited to physical and environmental impacts of the proposed project. Effects on coastal communities and businesses, as described in FGC § 7083(b) are addressed in the Statement of Economic Impact that accompanies the proposed regulations as part of the adoption package for new regulations associated with the NFMP. In addition, the environmental document provides a record on whether or not the proposed project may have a significant effect on the environment. In determining the potential for effects, on direct and indirect physical changes to the environment from the project are considered. Under CEQA, economic and social effects associated with the proposed project are not considered environmental impacts. Alternatives are designed to reduce the significant environmental impacts while still achieving the goals. Socio-economic information presented in Section I, Chapter 2, and revenue projections were calculated using an output demand multiplier for the entire State, not just the coastal economies. This method of calculation is noted in Tables 1.2-8 and 1.2-9 of the NFMP. Consequently, the contributions of all businesses associated with recreational angling in California are represented in the revenue projections presented in Section I, Chapter 2. |
| C-4    | Pursue Quality Information exchange on management options with tradeoffs.   | It is unclear to what this comment refers. Under the MLMA, fishery management decisions are intended to be adaptive and may be based on the best available scientific information and other relevant information that the Department possesses, or on such scientific information or other relevant information that can be obtained without substantially delaying the preparation of the plan. The MLMA also expressly contemplates the development of Essential Fishery Information, which includes a program for external peer review, in order to better manage the resource.   |
| C-5    | Continue to identify additional sources of fish population threats including entrainment by power generation plants, pollution (heat, chemical, erosion) and lack of recruitment of these nearshore rockfish species for the last 25 years. | The commenter raises concerns about human activities in the nearshore fishery and related water quality impacts generally. Section 4.1.2 of the environmental document accompanying the proposed NFMP analyzes direct and reasonably foreseeable indirect water quality impacts that may result with adoption and implementation of the proposed project. The environmental document also analyzes similar affects for 14 potentially feasible alternatives to the proposed project. In so doing, the environmental document complies with CEQA. To the extent the commenter is concerned about water quality in the nearshore fishery generally; these concerns are included in the administrative record of proceedings provided to the Commission for its consideration. Water quality effects are discussed in Section II, Chapters 3.2, 3.5, 3.11, 3.12, 4.1.2, and 4.5. While it is possible that water quality issues may play a role in stock  |



| Writer                              | Comment   | Response  |
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|                                     |   | abundance and resource sustainability, improving marine habitats as it relates to water quality issues is outside the purview of this FMP. The information available on the role of water quality issues on the 19 species is covered under Section II, Chapters 4.   |
| C-6                                 | In San Luis Obispo county there exist a group of informed professionals capable of working with the harvest, the science, the economics, the social and local governmental issues directly and indirectly affected by these closures. | The regional advisory committees will reflect the diverse interests of people concerned with the nearshore environment and its resources. Please see Section 1, Chapter 3, pages 114-115 for more information on regional advisory committees.  |
| <b>E-mail-45<br/>Robert Casey</b>   |   |   |
| C-1                                 | Instead of closure to recreational fishermen. How about restricting the commercial fishermen to harvest waters farther from shore.  | The MLPA process will consider several different types of marine protected areas including types closed to all take and ones closed to specific resource users. In addition the Commission has authority to close areas as needed to protect resources. Your comments are included in the administrative record of proceedings and will be provided to the Commission for its consideration.  |
| <b>E-mail-46<br/>Tim Peelen</b>     |   |   |
| C-1                                 | I hope that the Commission will continue allowing recreational fishing from shore during nearshore closures prohibiting fishing from a vessel.  | Please see response to E-mail 45 above.   |
| <b>E-mail-50<br/>Lloyd Perceval</b> |   |   |
| C-1                                 | This is a duplicate of E-mail-17  | Please see responses to E-mail-17.  |
| <b>E-mail-51<br/>Mike Driskell</b>  |   |   |
| C-1                                 | The fishermen of Calif. Have the right to fish the Calif. ocean.  | There is no authority for the proposition that a "recreational preference" governs marine resource management decisions. The California Fish and Wildlife Plan of 1966 was never implemented and is no authority. The provision of the California constitution regarding the so-called "right to fish" has been considered by the courts in the context of both recreational and commercial fishing. Further, the California Supreme Court has ruled that the power to regulate fishing has always existed as an aspect of the inherent power of the Legislature to regulate the terms under which a public resource may be taken by private citizens. This regulatory power applies to both recreational and commercial fishing, and the MLMA clearly contemplates regulation of commercial and recreational fishing without expressing a preference for either. |
| C-2                                 | WAKE UP, it's the commercial fishing industry that is taking all the fish. Stop the commercial fishing.   | Writer appears to support Alternative 2 (Fishery Control Rules with Prohibited Take, Possess, Landing, Sale, or Purchase of the 19 NFMP Species Taken From Waters off California While Those Species are Managed Under FCR Stage I and II Conditions) or Alternative 3 (Commercial Gear Restriction). If support is for Alternative 2 this would eliminate the commercial take of the nearshore species to be managed by this plan.   |

| Writer  | Comment   | Response  |
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|   |   | <p>It is important to understand that the circumstances under which these management measures were implemented in Washington were considerably different than the situation that exists in California. In Washington, there was no existing live-fish fishery at the time their regulations were adopted. Washington passed a series of specific conservation-driven regulations over several years that ultimately prevented development of a live-fish fishery in their nearshore environment. As a result, the need to deal with issues surrounding allocation of these resources between commercial and recreation sectors did not materialize there. In California, the commercial sector of the nearshore fishery has been active for several years. In addition, both the MLMA and PFMC decisions affect allocation issues concerning the nearshore fishery. The MLMA provides that fishery management plans shall allocate increases or restrictions in fishery harvest fairly among recreational and commercial sectors participating in the fishery. Furthermore, the NFMP states that generally it is the policy of the State to assure sustainable commercial and recreational nearshore fisheries, to protect recreational opportunities, and to assure long-term employment in commercial and recreational fisheries [FGC §7055 and §7056].</p> |
| FAX   |   |   |
| FAX-11<br>Unknown author  |   |   |
|   | <p>The FAX is a copy of a report by Oregon Department of Fish and Wildlife on their "Proposed Nearshore Fishery Management Planning and Actions". There is no letter or comments associated with the FAX.</p> | <p>It is unclear if this information was sent to support a concern. There was no letter associated with this information.</p>   |
| <p><b>The following material was handed in at the San Luis Obispo (August 1, 2002) and Oakland (August 29, 2002) public meetings.</b></p> |   |   |
| <p><b>Public Meeting Hand-in Writer-19<br/>Peter Halmay<br/>San Luis Obispo,<br/>August 1, 2002</b></p>                                   |   |   |
| C-1   | The material is a duplicate of Letter-24.   | Please see response to Letter-24.   |
| <p><b>Public Meeting Hand-in Writer-20<br/>Tom Raftican</b></p>   |   |   |

| Writer   | Comment   | Response   |
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| <b>Speaker 16 and Bob Osborn</b><br><b>Speaker 17</b><br><b>San Luis Obispo</b><br><b>August 1, 2002</b>                               |   |  |
| C-1  | This material is a duplicate of material identified as PH-18 which was handed in at the Los Alamitos Nearshore Advisory Committee meeting during public testimony.  | Please see responses provided in PH-18.  |
| <b>Public Meeting Hand-in Writer-21</b><br><b>Steve Rebeck</b><br><b>Speaker 14</b><br><b>San Luis Obispo</b><br><b>August 1, 2002</b> |   |  |
| C-1  | The current discussion of MPAs focuses only on fishing, while omitting marine mammal caused fish mortality, pollution and loss of habitat. I suggest MPAs will fail if these factors are not included.                      | The management of most marine mammals, including seals, is under exclusive federal jurisdiction under the Marine Mammal Protection Act. The Department and Commission's opportunities for controlling marine mammal populations are part of a continuing dialogue with the appropriate federal agencies to provide a coordinated approach towards sustainability of the nearshore fishery. Please see response to Letter 29, Comment 1 above regarding MPAs.   |
| C-2  | As an alternative, empowering people through a transferable quota system, as practiced in New Zealand, Australia, Iceland, and to a lesser extent in some of these United States seems preferable.                          | The Department agrees that Individual Fishing Shares (IFS) may be an appropriate management tool for this fishery. However, issues with joint jurisdiction with the PFMC and the federal moratorium on Individual Transferable Quota systems make implementing an IFS program impossible at this time. We believe that the proposed nearshore fishery restricted access program is a good first step towards a sustainable nearshore fishery. The nearshore fishery restricted access program is undergoing a separate but parallel rulemaking.  |
| C-3  | An established Total Allowable Catch (TAC) with Individual Transferable Quota (ITQ) and Annual Catch Entitlement (ACE), combined with a "slot fishery" would do essentially what MPA's promise without all the bureaucracy. | The NFMP is designed and written to be a framework document. Each of the recommended and alternative management strategies in the NFMP relies on a 'toolbox' of general management tools already in use by the Commission. Comments for specific management measures, such as size limits, slot limits, monthly closures, limitations on traps, line gear, and other gear are measures available to the Commission to use to achieve the goals of the NFMP. Please see Section II, Addendum 5, pages 208-213. In regards to size limits, there is also a potential for mortality upon release of short fish. The sizes of rockfish established in the Nearshore Fisheries Management Act (FGC §8585-8589.7) was based partly on the largest size expected to allow a released rockfish to survive after release. However, very little is known in California about this mortality issue. Management dependent on just a size limit recommended suite of measures which would not be as effective as the protect stocks, habitat, and ecosystems. |

| Writer  | Comment   | Response  |
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| <b>Public Meeting Hand-in Writer-22</b><br><b>Zeke Grader</b><br><b>Speaker 1</b><br><b>Oakland</b><br><b>August 29, 2002</b>         |   |   |
| C-1   | Same as Speaker 1 oral comments from the August 29, 2002 California Fish and Game Commission meeting in Oakland.  | Please see responses to Speaker 1, August 29, 2002 California Fish and Game Commission meeting in Oakland.  |
| <b>Public Meeting Hand-in Writer -23</b><br><b>Ted Wheeler</b><br><b>Speaker 21</b><br><b>Oakland</b><br><b>August 29, 2002</b>       |   |   |
| C-1   | Same as Speaker 21 oral comments from the August 29, 2002 California Fish and Game Commission meeting in Oakland.   | Please see responses to Speaker 21, August 29, 2002 California Fish and Game Commission meeting in Oakland.   |
| <b>Public Meeting Hand-in Writer -24</b><br><b>David Whittington</b><br><b>Speaker 30</b><br><b>Oakland</b><br><b>August 29, 2002</b> |   |   |
| C-1   | The Fish and Game Code describes that it is State policy to encourage the growth of local commercial fisheries CONSISTENT with aesthetic, educational, scientific, and recreational uses of such living resources, (and) the utilization of UNUSED resources (F&G Code sec. 10700d, 7055d) The Nearshore Fishery Management Plan's preferred alternative fails to satisfy this portion of the Code. | Section 1700 does not impose substantive mandates. Further, while the MLMA adopted the language of Section 1700( c ), concerning sport fishing, it did not adopt the restrictive language of 1700(d), concerning commercial fishing. The MLMA requires a fair allocation between sectors, and does not express a preference for either.   |
| C-2   | The Code mandates the maintenance of sufficient resources to support a reasonable sport use, where a species is the object of sport fishing, taking into consideration the necessity of regulating individual sport fishery bag limits to the quantity that is sufficient to provide a satisfying sport.  | One of many MLMA policies is that the resource support a "reasonable sport use" and that quantity be sufficient to provide a "satisfying" sport. These are subjective concepts whose applicability varies depending on the totality of the circumstances. Fishery management plans are required to conform "to the extent practicable" with such policies, which also include the encouragement of commercial fisheries. (See FGC §7055 and 7056.) If the terms are to be defined further, this would need to come as guidance from the Commission. |
| C-3   | The Code states that increases or restrictions shall be allocated fairly among participants in the fishery. To implement this portion of the Code, a thorough and fair analysis of relative sector dependence, historical use, and economics, among other factors should be included.   | The framework approach to total take and allocation allows regional involvement in management decisions. Discussion and recommendations for appropriate harvest levels and portions of take for sectors will take place at the regional level with guidance from the NFMP. Within the plan the recommended allocation approach lists factors developed for " <i>The Master Plan: A Guide for the Development of Fishery</i>   |

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|            |   | <p><i>Management Plans</i>". The factors include his torical participation, economics of the fishery, local community impacts, product quality and flow to the consumer, gear conflicts, non-consumptive values, fishing efficiency, and recreational versus commercial sectors of the fishery as guidelines for allocation decisions.</p>   |
| C-4        | <p>The Code also states that only fisheries that are sustainable be allowed. The preferred alternative does not ensure that this will occur.</p>  | <p>The MLMA expressly contemplates the use of adaptive management in areas of scientific uncertainty to achieve the primary fishery management goal of sustainability</p>  |
| C-5 and C6 | <p>(Requests that the)...Commission adopt the following proposal for the Central region as anticipated y the NFMP. Part 1. Section 2.3, alternative 2 of the NFMP. ...Part 1 shall be in effect until the above referenced stipulations of the Fish and Game Code have been satisfied and Stage III conditions...are in effect. Any commercial fishery then allowed would require a rod-and-reel only fishery, as per Alternative 3...The moratorium on commercial nearshore fishing resulting from the implementation of this proposal shall take effect on January 1, 2002...</p> | <p>Alternatives 2 and 3 are not the recommended management approaches; please see response to E-mail 51, Comment 2 above. In addition, Writer may be expressing support for Alternative 3 (Gear Restriction for the Commercial Fleet): This is not the recommended alternative to the fishery control rules. Gear endorsements and restrictions are measures used by the Commission for management of targeted marine species, by-catch, and wastage. This alternative was not established as a recommended measure by the Department because it was unnecessary to specify gear endorsement and restrictions in the NFMP framework when they already exist in regulation. Moreover, the specific restrictions of Alternative 3 constitute a fine-scale implementation strategy requiring regional-level discussion with constituents. Because of the recent actions taken by the PFMC and the subsequent closure of the continental shelf to most fishing, gear restrictions will undoubtedly be re-evaluated on the State level and by each of the forming regional committees. The need for gear restrictions is in direct proportion to the efficiency of the limited entry program. When the commercial fleet is commensurate with the amount of resource and the level of effort regionally, reduced gear efficiency may not be necessary. In the current commercial fishery that is over-capitalized and facing increased effort due to shelf closures, gear restrictions may be an emergency option. The Department believes that implementation of the recommended options will result in a sustainable nearshore fishery for both recreational and commercial sectors. An important element of the Department's preferred options in the NFMP is a restricted access program for the commercial nearshore fishery. This program will better match the size of the commercial fleet to the available resource, thus reducing the potential for overfished stocks while allowing a small, responsible commercial fishery to exist in California. To the extent this comment implies the existence of a recreational preference, see response to Speaker 21, comment 3 above.</p> |
| C-7        | <p>Authorization and/or support for a recreational nearshore conservation stamp to be purchased by annually licensed recreational anglers participating in the nearshore fishery. The resulting funds shall be dedicated to buying out all commercial</p>   | <p>The nearshore recreational stamp was originally proposed as a way to limit recreational effort in the nearshore fishery. After meeting with the Nearshore Advisory Committee and listening to public comment, it was agreed that this would not work as way to limit access. A recreational</p>   |

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|  | nearshore fishery permits and capacity in a manner that is fair to all parties.   | stamp could however be used as a research tool to assist in gathering better information on recreational fishing activities in the nearshore waters. Therefore, the stamp should have been moved into the section of the FMP dealing with future research needs. The Department has plans to develop an electronic database of recreational fishermen similar to what is currently in place for the commercial sector. This database could be used to improve the MRFSS phone survey because the survey could target known fishermen. Implementation of a recreational stamp or electronic database would be one way to get a better idea of how many people fish recreationally in nearshore waters and also estimate the amount of effort. The idea of buy-outs or other compensation to displaced fishermen has significant statewide policy, program and legal ramifications, and would require action by the Legislature. |
| <b>Public Meeting<br/>Hand-in Writer<br/>-25<br/>William Smith<br/>handed in by<br/>Bob Ingles<br/>Oakland<br/>August 29,<br/>2002</b> |   |  |
| C-1  | Readjust cabezon quota to previous sport allocated levels .   | The issue of "reallocation" occurred in the fall of 2001 when projections of take for cabezon and greenlings indicated the recreational sector would not reach its portion of the OY for those species. Because the OY developed for the 2001 fishery year was felt to be sufficiently precautionary, the Commission opted to manage on the total allowable take level. Your comments are included in the administrative record of proceedings and will be provided to the Commission for its consideration.   |
| C-2  | (Several suggestions including: 10 fish bag limit, not wanting to be forced into fishing inside 20 fathom, allocation split between commercial and recreational should be 16% commercial, 84% recreational, no reallocation from one sector to another, 12 month season). | The comments, for the most part, appear to be addressing recent and proposed federal actions by the PFMC to limit recreational and commercial fishing for rockfish, lingcod and other nearshore species outside 20 fms. PFMC is also considering reductions in the recreational bag limit for rockfish and nearshore species to provide for the longest possible recreational season. The proposed actions by PFMC are considered necessary to conserve the shelf rockfish resources and to prevent collapse of those stocks. The 16/84 split between commercial and recreational is an option presented to the Commission for their consideration in making a recommendation to PFMC for federally managed nearshore rockfish species. Response to the "reallocation" comment is addressed in response to E-mail 43, Comment 2 above.   |
| <b>Public Meeting<br/>Hand-in Writer<br/>-26<br/>Bob Ingles</b>  |   |  |

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| <b>Oakland<br/>August 29,<br/>2002</b>   |  |   |
| C-1  | (Several suggestions including: restrict fishing to inside 20 fathoms, bag limit of 10 nearshore rockfish, restore previous commercial/recreational cabezon allocation, lingcod size limit, season closures, elimination of sculpin from <i>Sebastes</i> complex, OYs for shallow rockfish, allocation at 16/84) | Please see responses to Public Meeting Hand-in Writer-25 (William Smith), Comments 1 and 2 above.   |
| <b>Public Meeting<br/>Hand-in Writer<br/>-27<br/>Mike Zamboni<br/>Oakland<br/>August 29,<br/>2002</b>                |  |   |
| C-1  | It recently came to my attention that the Commission was considering a proposal to ban stick gear in some or all regions in California. I would like to state my opposition to such a ban.   | At this time there is no alternative or regulation proposed to eliminate stickgear. The Commission does have the authority to restrict gear   |
| <b>Public Meeting<br/>Hand-in Writer<br/>- 28<br/>Tom Mattusch<br/>Speaker 2<br/>Oakland<br/>August 29,<br/>2002</b> |  |   |
| C-1  | Same as Speaker 2 oral comments from the August 29, 2002 California Fish and Game Commission meeting.  | See response to Speaker 2 from the August 29, 2002 California Fish and Game Commission meeting.   |
| <b>Public Meeting<br/>Hand- in Writer<br/>- 29 Randy Fry<br/>Speaker 5<br/>Oakland<br/>August 29,<br/>2002</b>       |  |   |
| C-1  | Same as Speaker 5 oral comments from the August 29, 2002 California Fish and Game Commission meeting.  | See response to Speaker 5 from the August 29, 2002 California Fish and Game Commission meeting.   |
| <b>Public Meeting<br/>Hand- in Writer<br/>- 30<br/>Bill Allayaud<br/>Oakland<br/>August 29,2002</b>                  |  |   |
| C-1  | Federal fishery officials say severe new limits are needed on California's near shore fishery.   | Recent action by the PFMC and conforming action by the Commission have increased fishing restrictions on rockfish species to protect certain stocks. Your comments are included in the administrative record of proceedings and will be provided to the Commission for its consideration. |
| C-2  | In U.S. waters each year, more than three billion pounds of fish are caught and discarded...Each year 44 billion pounds of fish are caught as bycatch and wasted around the world.   | The Department agrees. Section I, Chapter 4 (Research) includes information regarding the need to conduct research on bycatch to understand total mortality including mortality of landed and discarded fish, and natural mortality.  |
| C-3  | The Commission should make explicit and  | The PFMC recently adopted emergency action to   |

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|        | public support for action by designated authorities in closing the entire Continental Shelf from Mexico to Canada to bottom fishing until fish stocks recover to natural levels and can sustain reasonable harvests.                                       | close the continental shelf to recreational and commercial fishing to protect certain shelf rockfish species.  |
| C-4    | The Commission should request Federal authorities and Congress, where appropriate, to make selected parts of Federal marine sanctuaries along the California coast off-limits to commercial fishing and more strictly regulate recreational fishing there. | The Department has presented to the Commission a recommendation regarding establishment of closed areas in the Channel Islands National Marine Sanctuary. The precautionary approach to setting allowable catches until a network of MPAs is developed is designed to provide sustainability. The decision to create temporary closed areas would be at the discretion of the Commission. At this time, the process to develop a recommended network of closed areas is happening through the MLPA process.  |
| C-5    | We advocate temporary closure of critical areas and other temporary restrictions as tools of sound fisheries management.   | The consideration of a temporary network of reserves to protect the nearshore during the extended MLPA process has been suggested by a number of constituents. It was discussed by the Nearshore Advisory Committee and received unanimous support for the concept but no agreement on how the temporary locations should be sited, sized, or enforced. The authority to place temporary reserves rests with the Commission, and they may support this proposal at the recommendation of the Department or the public. In light of the recent actions of the PFMC regarding groundfish rebuilding, the proposal of a temporary network of reserves may receive more attention in the nearshore.  |
| C-6    | With regard to California waters, the Commission should immediately ban all nearshore rockfishing.   | Please see response Public Meeting Hand-in Writer -24, David Whittington, Speaker 30, Oakland, August 29, 2002 above.  |
| C-7    | Outlaw nearshore bottom trawl  | Many of the comments regarding restriction of various types of gears or modifications of gears involve gears not primarily used in the take of nearshore finfish. All gears mentioned in comments are regulated within the context of the particular fishery involved. For example, gillnets are not allowed in nearshore waters, trawl gear (for the most of the State) is deployed in waters beyond three miles, and longlines are regulated by length, number of hooks, and even days when they can be used. Some comments can be considered as suggestions for tools to be used to manage the fishery and will be looked at within the framework of implementing gear restrictions appropriate to manage the nearshore stocks. Any of the alternatives in the NFMP can be adopted in addition to or replacement for the recommended management measures. |
| C-8    | Ban 150-hook lines .   | This comment appears to be in support of Alternative 3. Please see response to Public Meeting Hand-in, Writer -24, David Whittington, Speaker 30, Oakland August 29, 2002, above.  |
| C-9    | Limit nearshore commercial fishermen to several hooks per line or ban commercial fishing altogether.   | Gear restriction of number of hooks per line is Alternative 3 and is responded to in Comment 8 above. Ban on commercial fishing appears to be  |



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|        |   | a comment in support of Alternative 2 which is responded to for E-mail-5, Comment 2 above.  |
| C-10   | The Commission should also impose sensible, science-based, seasonal, time and area restrictions.  | The NFMP is designed and written to be a framework document. Each recommended strategy mentioned is in the NFMP relies on a 'toolbox' of general management tools already in use by the Commission. These are measures available to the Commission to use to achieve the goals of the NFMP. Please see Section II, Addendum 5, pages 208-213.   |
| C-11   | Should ban new commercial fishing ventures.   | A commercial Nearshore Finfish Permit to take identified species was created with the adoption of the MLMA. A moratorium on issuance of new permits was established in 2000. In 2001a minimum landing requirement was adopted to reduce latent capacity. At this time not all 19 species are within the authority of the Commission for imposing a restricted access program. Transfer of authority for the remaining species still under authority of the PFMC would allow the Commission to develop a restricted access program that includes the 19 species.   |
| C-12   | Provide more and better-paid wardens to target and apprehend poachers.  | Please see response to Letter-36, Comment 7 above.  |
| C-13   | Sierra Club California advocates providing relief to people affected by new fishery recovery measures.  | The writer is apparently supporting the Federal groundfish disaster relief program.   |
| C-14   | The Precautionary Principle. The Commission should act in advance to avoid or minimize negative impacts and giving the benefit of the doubt to conservation of natural resources and the maintenance of biodiversity even when there is scientific uncertainty on cause and effects of potential impacts. | The proposed fishery control rules are extremely precautionary and are designed to adjust take as situations, such as potential shift in effort, change. The recommended option which is based on an integrated program of fishery control rules with three stages of precautionary adjustment depending on essential fishery information knowledge and providing for marine protected areas to provide basic levels of ecosystem conservation is designed to meet the requirements of the Marine Life Management Act and provide a framework suited to effectively managing the nearshore stocks and fisheries. In addition, please see response to E-mail-44, Comment 1 above.  |
| C-15   | Adequate investment in coordinated and expanded research on habitat, fish mortality, climate change, and threats posed by biotoxins, bacteria and viruses.  | Beyond the framework for multidisciplinary research efforts outlined in the NFMP, the Department has taken the lead in organizing a cooperative sampling program for the nearshore known as CRANE, Cooperative Research and Assessment of Nearshore Ecosystems. The CRANE program will facilitate the collection of important information for assessment and management of nearshore finfish. This effort will involve participation from other management agencies, academic institutions, fishery participants, industry, and interested constituencies. CRANE's efforts have begun in the area of developing and assessing scuba-based observations for their efficacy in contributing to the stock assessment puzzle and establishing an information baseline for nearshore reef ecosystems. Concurrent with this is a collaborative effort to develop a database that will allow the sharing of biological and |

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|  |   | <p>physical data on the nearshore environs. This will allow the Department to make use of information generated by the survey program in a timely manner to inform the fishery management process. If comment regarding biotoxins, bacteria, and viruses is addressing water quality concerns: Section 4.1.2 of the environmental document accompanying the proposed NFMP analyzes direct and reasonably foreseeable indirect water quality impacts that may result with adoption and implementation of the proposed project. The environmental document also analyzes similar affects for 14 potentially feasible alternatives to the proposed project. In so doing, the environmental document complies with CEQA. To the extent the commenter is concerned about water quality in the nearshore fishery generally; these concerns are included in the administrative record of proceedings provided to the Commission for its consideration. Water quality effects are discussed in Section II, Chapters 3.2, 3.5, 3.11, 3.12, 4.1.2, and 4.5.</p> |
| C-16   | Support and encourage the development of less destructive fishing gear and techniques.  | The Department agrees with the need for this information. Identification of research needs, methods to obtain information, and a timeline are provided in Section I, Chapter 4.   |
| C-17   | Better coordination of fisheries management across jurisdictional boundaries with other agencies, entities and authorities.   | The MLMA mandates coordinated approaches to management as an objective [FGC §7050 (b)(9)]; this is also an objective in the NFMP (Section I, Chapter 1, page 7) which the NFMP will strive to meet. In addition, please see response to Comment 15 above.   |
| C-18   | Support and funding of programs and policies that effectively reduce habitat degradation by physical disruption and land-based pollution sources .  | Habitat protection is one of the goals of the MLMA and NFMP. Also see please response to Comment 15 above.  |
| C-19   | Wider opportunities for non-commercial fishing constituents, representatives of environmental and consumer groups, and private citizens interested in public fisheries to participate in the Commission's work, its councils and its advisory panels that recommend or set fisheries public policy. | See [FGC §7059, §7075(c), §7076, and §7078]. Regional Advisory Committees (RACs) representing diverse interests in the nearshore will be created to provide recommendations to the Department regarding management of the fishery. The Department will provide the RAC recommendations and those of the Department to the Commission in a coordinated manner. For more information on the RACs, please see Section I, Chapter 3, Regional Management.   |
| <b>Public Meeting<br/>Hand-in Writer<br/>– 31<br/>Karen Reyna<br/>Speaker 3<br/>San Luis<br/>Obispo,<br/>August 2002</b> |   |   |
| C-1  | (A Nearshore Fish Abundance Matrix for the 19 nearshore species and a copy of a newspaper article were provided by the Speaker)   | The Department appreciates receiving this information.  |
| <b>Public Meeting<br/>Hand- in Writer<br/>- 32</b>   |   |   |

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| <b>Brobeck Letter<br/>for Coastside<br/>Fishing Club<br/>Read by Tom<br/>Mattusch, S-2<br/>Oakland,<br/>August 2002</b> |  |   |
|   | This letter was read by Speaker 2, Tom Mattusch at the August 29, 2002 Fish and Game Commission meeting in Oakland. The letter is identified as "Letter from Brobeck S-2A Read by Tom Mattusch". | Please see responses to letter S-2A read by Speaker 2 at August 29, 2002 Fish and Game Commission meeting in Oakland. |