Chapter 1. Introduction

Goals and Objectives of the Nearshore Fishery Management Plan under the Marine Life Management Act

Through its goals, objectives, policies, and mandates, the Marine Life Management Act (MLMA) provides a general framework for developing a management program for the nearshore finfish fishery. The beginning point for applying the MLMA to this fishery is the identification of management problems in the fishery. Specific management objectives and actions can then be identified in the Nearshore Fishery Management Plan (NFMP) that will address these problems in the fishery in a way that will promote achieving the goals of the MLMA.

The following discussion presents management problems in the nearshore fishery, describes the goals and objectives of the MLMA and of other relevant law, and identifies specific management objectives for the NFMP. Much of the NFMP then describes in greater detail regulatory and other activities that will promote the achievement of these objectives.

Problem Statement for the Nearshore Fishery

The NFMP applies the mandates and policies of the MLMA to addressing current problems in the nearshore fishery. To do so, the NFMP relies upon a consensus problem statement recommended by the NFMP Advisory Committee:

Nearshore rocky-reef habitats off California support many different kinds of fish. Many of these species are subject to exploitation in **commercial** and **recreational** fisheries, and are important to some skin divers and scuba divers for their intrinsic value and observational interest (words in **bold** are defined in the Terminology sidebars). Because many of these species occur in narrow depth ranges or limited habitats and occupy restricted geographical ranges, they may have smaller populations than deeper-water species. Many species are residential as adults, tending to move only short distances, with the result that replenishment of local populations comes mainly through the settlement of larvae dispersed by ocean currents.

Terminology

commercial fishery - fishing with certain gear or in a certain manner with the intent of selling the catch.

recreational fishery - fishing with certain gear or in a certain manner with no intentions of selling the catch.

life history - The history of changes an organism passes through in its development from egg, spore or other primary stage until its natural death.

As with all marine life off California, these species are subject to the effects of short-term and long-term variations in oceanographic conditions. Cooler-water species in particular have experienced increasingly reduced productivity and poor recruitment (survival of spawned fish to a size at which they are first caught by fishermen) since 1977. Many nearshore species may live 20 years or longer, and take several years to reach maturity. This **life history** may restrict the ability of exploited species to sustain harvest levels under moderate to heavy fishing by reducing the life spans and removing

the older, larger, more productive animals from most populations. Thus, exploitation mayhave a negative effect on the ability of populations to recover from natural environmental environmental changes. In addition, juveniles of some species of rockfish are important parts of the diets of several nearshore species. An **ecosystem** approach to management recognizes the impact of the relationship between predators and their prey. Furthermore, the small range of habitat for the nearshore species leaves them highly vulnerable to habitat degradation. Human impacts not related to the nearshore fishery create unique threats to the habitats.

ecosystem - the physical and climatic features and all the living and dead organisms in an area that are interrelated in the transfer of energy and material, which together produce and maintain a characteristic type of biological community.

commercial passenger fishing vessel (CPFV) - a licensed fishing vessel that takes recreational anglers fishing for a fee. The vessel operator must follow certain requirements such as providing the Department with a log that, among other things, includes listing the number of anglers and an enumeration of the catch.

Landings of many nearshore species began to increase in the 1980s and the increases continued into the 1990s. In addition, increasing human population size and shifting patterns of the commercial and recreational fisheries have altered the nearshore fishery off California. For example, the commercial nearshore fishery has converted from a largely gill net fishery in the 1970s to a trap and set line fishery now.

As a result, the fishery has expanded into new species, new geographic areas, and into new habitats such as kelp beds, which were previously avoided. Likewise, recreational fishing in the nearshore has expanded geographically as more central region and northern region California **commercial passenger fishing vessels** (CPFVs) have discovered nearshore fishing, and as the number of privately-owned recreational boats has grown since the 1970s. These factors, combined with recent environmental changes (such as an oceanographic shift to warmer water from the 1970s through the 1990s) have led to localized and larger-scale reductions in nearshore stocks. As the nearshore fisheries have expanded geographically, areas which may have acted as refugia (areas where fish are not taken because they are distant from ports) have come under exploitation, further affecting the ability of nearshore species to sustain exploitation. Increases in the price paid to commercial fishermen for many of the nearshore species have also been important in driving increased fishing effort. These trends have continued in the absence of a comprehensive management strategy.

The expansion of the nearshore fishery has taken place in the absence of key information that would allow assessment of the status and trends in nearshore finfish populations. Much Essential Fishery Information (EFI) can only be obtained gradually and over a period of several years, resulting in a continually changing base of knowledge. Because of this time lag, management based on this information always lags behind the development of the fishery. As a result, it is hard to determine if current fishing is at sustainable levels. Population size is not known for any species in the nearshore fishery. In addition, inconsistency in species identification and other factors have made it difficult to determine catch trends for many species of nearshore

fish. Also, the recreational small boat fishery and the commercial live-fish fishery are

highly mobile and are not dependent on established landing points or fish processing facilities, which makes it difficult to estimate the catch of independent recreational

Table 1-1. Correlation of management measures to the goals and objectives of the Marine Life Management Act and to the objectives of the Nearshore Fishery Management Plan

	Fishery Management Measures												
MLMA and NFMP Goals and Objectives	Three-tiered harvest control rule			Marine protected area network	Inner area closures	Catch limits	Minimum/ maximum size limits	Gear restrictions	Restricted access	Regional mgmt	Allocation	Landing records	Observer programs
	Stage I	Stage II	Stage III										
Conserve Ecosystems		▪	●									▪	
Use an ecosystem approach		▪	●	●						▪			
Identify associated species		▪	●	●									▪
Identify natural influences on nearshore environment		▪	●	●									
Provide for non-consumptive use				●									
Allow Only Sustainable Uses	▪	●	●	▪		▪	▪	▪	▪	▪		▪	
Adjust catch allowances to reflect uncertainty	●	●	●										
Tailor catch limits to regional variations		▪	●			●				●		●	
Limit fishing to sustainable yields for current oceanographic conditions			●							●		▪	
Avoid localized depletion		●	●	▪		▪	▪	▪		▪			
Protect vulnerable populations		●	●	●			▪	▪				▪	
Reduce bycatch and bycatch mortality	▪	●	●		▪	●							●
Match fish harvest capacity to sustainable harvest levels									●				
Rebuild Depressed Stocks		●	●	●	▪	●	▪						▪
Employ objective and measurable criteria for determining overfishing	▪	●	●	●	●	●	●						
Allocate resources among users fairly and equitably						▪	▪	▪		▪	●	●	
Minimize Long Bycatch and Mortality				▪	▪	▪	▪	▪					●
Analyze type and amount of bycatch												▪	▪
- Develop collaborative research on bycatch													●
- Develop incentives to minimize bycatch													●
Maintain, Restore and Preserve Habitat				●	▪								
Identify, assess and minimize adverse impacts		▪	●	●									
Identify and minimize fishing that destroys habitat		▪	●	●								●	
Promote fishing and minimize habitat impacts					▪	▪		●	▪				
Conduct Collaborative Research													
Collect and review social information on habitats and organisms	▪	●	●							▪			

● = Large contribution ● = Smaller contribution ▪ = Smallest contribution

anglers, to track landings, and to enforce reporting requirements for recreational CPFVs and commercial fisheries. Managing this coastwide fishery is further complicated by significant regional differences in biological and **socio-economic** factors.

Many nearshore species are subject to federal management through the Pacific Coast Groundfish Fishery Management Plan (Pacific Fisheries Management Council 1993) and other nearshore species are not. This complicates independent state regulation of the fishery as a unit because all regulations relating to federally managed species must be evaluated and found consistent with federal fishery management policy to remain in effect.

socio-economic - involving or relating to a combination o social and economic factors.

allocation - the apportionment of an item for a specific purpose to a particular person or group of persons; in the NFMP it means to set aside a certain amount of nearshore fish for recreational, commercial and ecosystem needs.

non-consumptive - activities which involve the specified resource but no harvest is involved.

peer review panel - a group of experts who are assembled to review the scientific basis of a fishery management document and evaluate the scientific soundness of the document. The panel members cannot be employees or officers of the Department or the Fish and Game Commission, and can not have helped with the development of the document.

Finally, one of the most difficult and controversial aspects of many fishery management decisions is the **allocation** of allowable catches between commercial and recreational fishermen and among fishermen, **non-consumptive** users, and the needs of the ecosystem. Unlike in many other California fisheries, commercial and recreational fishermen directly and indirectly affect each other's use of the nearshore. In times of decreased allowable harvest levels there is economic hardship for those whose primary source of income is derived from the nearshore fishery, in addition to reduced recreational opportunities and related social values.

Goals and Objectives

In developing the project, the California Department of Fish and Game (the Department) applied the goals and objectives of the MLMA to addressing the management problems in the fishery described above. The goals and objectives below also reflect extensive consultation with constituents through three public meetings, two meetings of the NFMP Advisory Committee, and one meeting of the MLMA Evaluation Advisory Committee. The Department also drew upon written comments by the **peer review panel**, other written comments, and comments submitted via its web page. A summary of the meetings mentioned above appears in Appendix A.

The general results of this effort appear below, where five goals for the NFMP are identified. Each goal is accompanied by numbered objectives, all of which are derived from provisions of the MLMA and other relevant sections of the Fish and Game Code (FGC). Where necessary, the Department also has identified more specific objectives (preceded by bullets) for management of the nearshore fishery. These appear with the MLMA's goals and objectives in Table 1.1-1 and Appendix B.

Goal I: Ensure Long-Term Resource Conservation and Sustainability

The MLMA's overriding goal is to ensure the conservation, sustainable use, and restoration of California's marine living resources [FGC §7050(b)]. This includes the conservation of healthy and diverse marine ecosystems and marine living resources [FGC §7050(b)1]. To achieve this goal, the MLMA calls for allowing and encouraging only those activities and uses that are sustainable [FGC §7050(b)2]. **Sustainability** is the overriding principle of the MLMA and the NFMP.

Within this overall policy on marine living resources, the MLMA sets the State's policy for marine fisheries [FGC §7055; §7056]. Both commercial and recreational fisheries are to be managed to ensure the long-term economic, recreational, cultural and social benefits of the fisheries and the marine habitats upon which they depend. With this in mind, the MLMA establishes a marine fishery conservation program in order to:

- ensure conservation
- achieve sustainable use of fisheries
- rebuild **depressed stocks**
- prevent overfishing
- promote habitat protection and restoration
- develop information for management decisions

Fish and Game Code §7056 lists objectives for the fishery management system that will foster fisheries that can reliably provide the range of benefits that Californians seek from marine wildlife—sustainable fisheries. These features include limiting **bycatch**, rebuilding depressed fisheries, maintaining long-term benefits rather than opting for short-term benefits, making decisions in the open, basing decisions on scientific advice and other useful information, and adapting to changing circumstances.

sustainability - with regard to a marine fishery, means both 1) continuous replacement of resources, taking into account fluctuations, and 2) securing the fullest possible range of present and long-term social and economic benefits, maintaining biological diversity and managing fisheries in a way that does not exceed optimum yield.

depressed stock - a stock whose abundance has declined to a level below which maximum long-term productivity can be achieved or which may adversely affect the health of the ecosystem to which it belongs.

bycatch - the take of a species that occurs incidentally while catching another species or species group. Bycatch includes fish discarded because they are of an undesirable species, size, sex, or quality, or because they are required by law not to be retained.

Objectives:

1. Conserve the health and diversity of marine ecosystems and marine living resources [FGC §7050(b)(1)].

    - Use an ecosystem approach to management of the nearshore fishery, considering species diversity, species interactions, food webs, and community structure.

- Identify other species in the ecosystem that may affect, or be affected by, changes in the abundance of nearshore fish.
- Identify man-made or environmental influences on the nearshore ecosystem.
- Establish marine reserves and other types of marine protected areas to protect and restore marine ecosystems and to provide for non-consumptive uses.

2. Allow and encourage only those activities and uses of nearshore marine living resources that are sustainable [FGC §7050 (b)(2)]. Ensure that the nearshore fishery is conducted in a sustainable manner such that long-term health of the resource is not sacrificed in favor of short-term benefits. A fishery managed on the basis of **maximum sustainable yield** (MSY) shall have **optimum yield** (OY) as its objective [FGC §7056 (a)].

- Adjust target catch to levels appropriate to the uncertainty about the status of individual populations.
- Tailor catch levels to regional conditions.
- Ensure that target catch levels reflect expected oceanographic conditions whenever possible.
- Identify means of avoiding or minimizing **localized depletion**.
- Protect more vulnerable populations when setting target catch levels for a group of species.
- Include bycatch estimates in determining total catches by different sectors of the fishery.
- Promote total **fishing capacity** that is matched to sustainable harvest levels.

3. Rebuild depressed nearshore fisheries to the highest sustainable yields consistent with environmental and habitat conditions [FGC §7055(b), §7056 (c) and §7086].

- Specify objective and measurable criteria for identifying when the fishery is in danger of becoming overfished or is overfished and, if possible, identify reference points that will trigger

maximum sustainable yield (MSY) - the theoretical maximum catch that can be obtained over the long-term. It is generally presented as a maximum annual catch that can be maintained indefinitely; however, MSY can change with shifts in ocean regimes, requiring adjustments in allowable harvest.

optimum yield (OY) - the amount of fish taken in a fishery that does all of the following: 1) provides the greatest overall benefit to the people of California, particularly with respect to food production and recreational opportunities, and takes into account the protection of marine ecosystems, 2) is the maximum sustainable yield of the fishery, reduced by relevant economic, social, or ecological factors, and 3) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing maximum sustainable yield in the fishery. Optimum yield should be no greater than maximum sustainable yield.

localized depletion - occurs when the number of a particular type or size of fish in a small geographic area (such as a rocky reef) is reduced to very low levels.

fishing capacity - the potential of a vessel or a fleet of vessels to capture fish if not restricted by management measures. It is expressed as the number of fishery participants; size, gross tonnage, or horsepower of vessels; amount and type of

specific actions to avoid or prevent overfishing and to rebuild stocks [FGC §7086(a) and (b)].
- Establish marine protected areas to help restore depressed fish populations.
- Fairly and equitably allocate fishery restrictions, and benefits from recovery [FGC §7086(c)(2)].

4. Limit bycatch of nearshore species, and all species taken by nearshore fisheries, to acceptable types and amounts, as determined for the fishery. Minimize the mortality of bycatch that is discarded [FGC §7056 (d) and §7085].

    - In cooperation with user groups, develop and implement collaborative monitoring programs to document and assess levels of bycatch in all sectors of the fishery.
    - To minimize bycatch, develop fishery incentives such as preferences in harvest areas or **harvest guidelines**.

5. Maintain the health of marine nearshore fishery habitat, and to the extent feasible, restore or enhance that habitat where appropriate [FGC §7056 (b) and §7084].

    - Identify key habitats for nearshore fish species, assess habitat status, and identify measures to enhance habitats where appropriate.
    - Identify and minimize, to the extent practicable, fishing activities that adversely impact habitats.
    - Promote fishing activities that minimize adverse impacts to habitat.
    - Protect nearshore fishery habitats through designation of marine protected areas.

harvest guidelines - the amount of catch allowed (either a weight or a proportionof the stock size), which differs from a quota in that closure of a fishery (prohibition of retention, possession, or landing) is not automatically required when the guideline is reached.

6. Coordinate approaches to the management of shared nearshore resources and fisheries with adjacent coastal states, Mexico, and Canada [FGC §7050 (b)(9)].

    - Encourage regional approaches to management of activities and uses that affect nearshore resources.
    - Develop management approaches that, to the extent required by law, are consistent with the federal fishery management plan for Pacific coast groundfish.
    - Seek a transfer of management authority to the State for federally defined nearshore groundfish which are also included in the NFMP.

Goal II: Employ Science-based Decision-making

At the core of the MLMA is the principle of basing decisions on sound science and other useful information. With this in mind, the MLMA includes, as a general objective, promotion of marine ecosystem research that will enable better management decisions [FGC §7050(b)5]. The MLMA also calls for basing decisions on the best

available scientific information as well as other information that the Department and the Fish and Game Commission possess [FGC §7050(b)6]. While the MLMA emphasizes scientific information in making decisions regarding the conservation and sustainable use of California's marine living resources, it also recognizes the value and importance of relying upon other sources of information such as local knowledge [FGC §7056(h)].

Objectives:

1. Encourage fishery management decisions that are adaptive and based on the best available information and that do not substantially delay the management process [FGC §7056 (g) and FGC § 7072(b)].

    - Obtain Essential Fishery Information (EFI) for the nearshore fishery, including information about life history and habitat requirements, status and trends of fish populations, and effects of fisheries on fish, ecosystems, and fishermen (FGC §7060 and §93).
    - Establish marine protected areas that can assist in research on nearshore ecosystems and on the effectiveness of marine protected areas in managing and enhancing fisheries.
    - Develop research protocols for the nearshore fishery (FGC §7081).
    - Utilize the program for external peer review of the scientific basis of marine living resources management documents developed under the MLMA (FGC §7062).
    - Analyze the amount and type of bycatch of nearshore and associated species [FGC §7085].

2. Create cooperative and collaborative partnerships with fishery participants, public and private entities, and research institutions to acquire EFI and to design and conduct research and monitoring [FGC §7056(k)].

    - Collect and synthesize information on the **spatial distribution** of habitat types and densities of nearshore organisms.
    - Consider alternatives to the MSY/OY approach and promote and support related research.
    - Assess **stock trends** using **fishery-dependent** and **fishery-independent** techniques.

3. Periodically review the management system for effectiveness in achieving sustainability goals and for fairness and reasonableness in its interaction

spatial distribution - how individuals in a population are spread out or arranged over an area. Individuals may be distributed evenly, randomly, in clumps, or in schools throughout suitable habitat.

stock trends - the number of individuals or the weight of the stock at a given time. Stock size changes over time; the general direction of those changes is the stock trend.

fishery-dependent - describes information collected directly from fishery landing data.

fishery-independent - describes information collected separately or independent of fishery landing data.

with people affected by management [FGC §7056 (m)].

- Establish a timetable for periodic review of the plan consistent with FGC §7065.
- Develop mechanisms and timetables for monitoring, evaluating, and reporting response of fisheries and their ecosystems to management actions.
- Establish procedures for review and amendment of the plan (FGC §7087).

Goal III: Increase Constituent Involvement in Management

The MLMA focuses special attention on **constituent involvement** in marine fisheries management – not only in the development of management plans but in other key activities such as research and implementation of management decisions. The MLMA calls for involving "all interested parties" in making decisions regarding marine living resources [§7050(b)7] and for disseminating accurate information on the status of marine life and its management [§7050(b)8].

Objectives:

1. Develop an open decision-making process and seek the advice and assistance of interested parties so as to consider relevant information including local knowledge [FGC §7056 (h)].

   - Develop a collaborative process, to the extent possible, for developing and implementing the management plan that treats constituents as partners.
   - Encourage constituents to make recommendations on nearshore fishery management approaches by using collaboration among groups in regional management areas.
   - Use outreach techniques that will encourage a broad range of constituents to participate in the development, review, and amendment of the NFMP.
   - Provide multiple avenues for participating in the plan development that recognize both the different levels of constituent interest and the difference in constituents' preferences and capacity to participate.
   - Coordinate with the **Marine Life Protection Act** (MLPA) and public rulemaking processes for the designation of marine protected areas in nearshore ecosystems.
   - Promote the involvement of culturally diverse segments of the population.

constituent involvement - the participation of interested individuals and groups in fishery management activities such as the development and implementation of fishery management plans.

Marine Life Protection Act (MLPA) - The MLPA, enacted in 1999, requires the Department of Fish and Game to develop a Marine Life Protection Program, including a Master Plan for a network of Marine Protected Areas (MPAs) within state waters. The Program and Plan are to be submitted to the Fish and Game Commission and implemented, to the extent funds are available, by December 1, 2003. The network of MPAs will include an improved State Marine Reserve (complete no-take areas) component and may include other classifications of MPAs (State Marine Parks and State Marine Conservation Areas). The goals of the MLPA are varied and include protecting portions of ecosystems in a variety of habitats, preserving biodiversity, and helping to sustain and protect populations of fished species.

- Provide wide distribution of reliable and timely information using a wide variety of communication methods.
- Increase public stewardship awareness via increased communication and education concerning nearshore issues.

2. Allow fishery participants to propose methods to prevent or reduce excess effort in nearshore fisheries [FGC §7056 (e)].
3. Involve constituents in preparing Fishery Management Plans (FMPs) [FGC §7076(a)].

4. Involve interested people in designing research protocols for individual FMPs [FGC §7074(b)].

Goal IV: Balance and Enhance Socio-economic Benefits

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

The MLMA requires recognition of important aesthetic, educational, scientific, and recreational uses that do not require taking marine wildlife, as well as the economic and cultural importance of sustainable sport and commercial fisheries [FGC §7050 (b)(3) and (4)].

Objectives:

1. Recognize the importance of non-consumptive uses of California's marine resources [FGC §7050 (b)(3)].

passive values - non-market economic value, where a quality or quantity of the resource is valued but never directly used by a person. Examples include bequest and existence values.

coastal community - an organized body of individuals and businesses in a specific geographic location For the purposes of preparing the NFMP and socio-economic analyses, coastal communities are

- Minimize conflicts among consumptive and non-consumptive uses of California's nearshore marine resources.
- Cultivate long-term socio-economic benefits and best-use practices, while taking into account non-consumptive uses and **passive values** that may accrue to the entire State.
- Coordinate with the MLPA and public rulemaking processes in designating marine protected areas that maximize non-consumptive uses.

2. Coordinate recreational and commercial nearshore fishery management to the greatest extent possible [FGC §7056(f)]. Maintain a sufficient resource to support a

reasonable recreational fishery [FGC §7055 (c)]. Encourage the growth of commercial fisheries [FGC §7055 (d)].

3. Observe the long-term interests of people dependent on fishing for food, livelihood, or recreation, and minimize the adverse impacts of fishery management on small-scale fisheries, **coastal communities**, and local economies [FGC §7056 (i)(j)].
   - Employ management strategies and allocation methods conducive to an orderly, efficient, and economically viable fishery.
   - Encourage efficient and waste-minimizing fishing practices.
   - Preserve diversity among fishing fleets.
   - Generate incentives for conservation practices such that the long-term health of the fishery, or rebuilding of depressed stocks, represents an asset to resource users.
   - Provide fishermen more flexibility to employ a range of fishing practices to meet variations in biological, seasonal, and market conditions.
   - Authorize and encourage commercial fishermen to be flexible in choosing the combination of labor and capital most efficient for their scale and type of operation.

4. Develop mechanisms to resolve disputes about issues such as, but not limited to, access, allocation, and gear conflicts [FGC §7056 (k); FGC §7059 (b)(2)].

Goal V: Identify Implementation Costs and Sources of Funding

The Department's management of commercial and recreational fisheries has been supported by general funds appropriated by the Legislature, by federal funds for commercial and recreational fishing, and by user fees in the form of permits, licenses, and other fees (FGC §710.5). In FGC §711(c), the Legislature stipulated that revenues for hunting and sport fishing programs not be used for other purposes, including commercial fishing. In 1993, the Legislature reiterated its intent to ensure adequate funding from appropriate sources (FGC §711).

Objectives:

1. Help ensure that fees more accurately reflect all costs of the Department's management [FGC §710.5].

   - Prioritize research, monitoring, and public information needs and identify funding costs and sources, as well as funding gaps.
   - Consider costs of implementation in choosing management options.
   - Identify the resources and time necessary to monitor and evaluate proposed management actions.
   - Establish an adequate long-term funding base for scientific research, enforcement, and management.

2. Identify the resources and time necessary to acquire EFI [FGC §7081(b)].

3. Cooperate with the Legislature, recreational fishermen, the environmental community, the commercial fishing industry, and other interested people to identify alternative sources of funding for "the department's necessary marine resource management and protection responsibilities" [FGC §710.7(c)]. Investigate and propose new means of long-term funding for research and management of the nearshore fishery.

The Structure of the Nearshore Fishery Management Process under the Marine Life Management Act

The MLMA recognizes the need to adapt to changing circumstances. It does so by embracing the principle of adaptive management. The MLMA defines this principle as a scientific policy that seeks to improve management "by viewing program actions as tools for learning" (FGC §90.1). Management measures must be designed to provide useful information whether they succeed or fail. Monitoring and evaluation of fisheries are needed to detect the effect of the measures.

The MLMA explicitly calls for ensuring that managers can respond to changing environmental and socio-economic conditions [FGC §7056(l)], and requires that FMPs establish a procedure for regular review and amendment, if that is appropriate [FGC §7087(a)]. Because the review and amendment of an FMP is generally a lengthy process, the MLMA allows greater flexibility in responding to changes in a fishery by allowing an FMP to specify the kinds of regulations that may be changed without amending the FMP itself [FGC §7087(b)]. This process mirrors the federal government's process, where annual quotas or in-seasons adjustments in management measures may generally be made without resorting to the lengthy process of amending the FMP itself.

To meet the standards of the MLMA for adaptive management, the NFMP establishes a hierarchical framework within which adjustments to the management of the nearshore fishery can be made in a responsible and timely manner. Depending upon the scale and significance of needed changes in management, the FMP itself may need to be amended or an in-season decision by the Department—to close a fishery once a quota has been reached, for instance—may be appropriate. The former action requires much greater analysis and public review than does the latter. Standards for determining the appropriate level of action are described below.

The NFMP also establishes a process for regular review of the fishery and for the involvement of constituents in determining the need for adjustments, as described below. Because the NFMP establishes a framework for future management, it does not itself impose specific management measures such as gear restrictions, time and area closures, and bag limits. Instead, specific regulations will be adopted in coming years to implement the management strategies of the NFMP to meet the goals and objectives of the MLMA and of the NFMP. For instance, while the NFMP describes the elements that should be included in a restricted access program, it does not include

regulations for a specific program. Such regulations await the development of specific restricted access programs after further analysis and review by constituents.

Finally, some elements of the NFMP will be implemented before others. In some instances, research programs must be launched or advisory groups established before some types of actions described in the NFMP can be taken. Other elements of the NFMP, such as setting allowable catch levels, will be implemented immediately by adopting, for the time being, current regulations (FGC §7083).

Types of Frameworking Actions

There are four general types of actions that the Commission may take within the framework of the NFMP: an FMP Amendment, Full Rulemaking Action, Notice Action, and Prescribed Action. Each type of action reflects a different degree of change in management—from changing a basic feature of the NFMP itself to implementing a routine administrative matter, such as closing a fishery when its quota is reached. Actions which reflect a higher degree of change require a greater level of scrutiny and analysis than do actions which are routine. Brief descriptions of each of these action types and the conditions for their use follow.

FMP Amendment

FMP framework management is designed to be flexible and adaptable to a wide range of future conditions, and intended to function without the need for frequent amendment. However, unforeseen social, economic, environmental, or biological developments may create a situation under which the NFMP does not adequately provide effective management of the nearshore fishery. Under such circumstances, the Commission would amend the NFMP.

The FMP must be amended (with implementing regulations) if the change in management is a major or controversial action outside the scope of the NFMP. Examples of such actions include:

- changes to management objectives
- changes to the species in the FMP
- a change in the “overfished” or “overfishing” definitions
- amendments to any procedures required by the FMP
- revisions to any management measures which are fixed in the FMP

Besides obtaining the views of advisory bodies, holding public hearings, and soliciting public comments, preparation and adoption of an amendment to the NFMP will require environmental analysis of proposed changes (FGC §781.5).

Full Rulemaking Actions

If management measures will have a long-term effect, grant discretion in their application, and may have impacts that may not have been analyzed previously, a Full Rulemaking Action is required. This process, which must follow standard

Administrative Procedures Act, normally requires at least three Commission meetings. Full Rulemaking may also be used to declare a management measure "routine."

In the Full Rulemaking process, the Commission reviews the issues at a first meeting and authorizes its staff to publish notice of its intent to adopt regulations at a later meeting. This notice, which begins a 45-day period for public comment, includes specific documentation including an Informative Digest that summarizes existing law and the effect of the proposed action, the deadline for public comments, the time and place of any public hearings, and contact information for obtaining additional information. The notice is sent to persons on the Commission's and Department's active mailing lists and is also published in the California Regulatory Notice Register.

At its second meeting, the Commission reviews the proposed measures and alternatives in detail and receives public comment. At the third meeting, the Commission hears public comment and adopts the final rules. Commission staff then submits the final rules to the Office of Administrative Law for procedural review prior to publication.

The Commission or the Department may refer an issue to a standing committee or appoint an ad-hoc advisory committee to conduct further analyses and/or develop recommendations. The composition of such committees will include the Department, other agencies with statutory responsibility for the issue, representatives from affected groups, and any other persons as chosen by the Commission.

This process does not diminish the authority of the Director or the Commission to take emergency regulatory action under FGC §7710, California Government Code §11346.1, or FGC §240.

Notice Actions

Once a measure (such as establishing annual catch quotas) has been classified as routine through a Full Rulemaking Action, it may be modified after a single meeting of the Commission if both of the following conditions are met:

- The modification is proposed for the same purpose as the original measure.
- Impacts of the modification are within the scope of the impacts analyzed when the measure was originally classified as routine.

Before acting on such a proposal, the Commission will send a written notice describing the proposed action to people on the Commission's and Department's active mailing list and will provide a 15-day period for comment.

Prescribed Actions

When an action is non-discretionary (ministerial) and the impacts have already been analyzed through Full Rulemaking, the Department may take the action without prior public notice, opportunity to comment, or a Commission meeting. An example of such a Prescribed Action is the closure of a fishery when a quota has been reached. The Full Rulemaking Action that authorized the Prescribed Action must specify methods for notifying the public.

Review and Amendment Procedure

While environmental, social, and economic changes during the year may lead to consideration of regulatory changes under the framework described above, the MLMA also requires periodic review of management. The Department will conduct a periodic review to determine the effectiveness of nearshore regulations in accomplishing the goals and objectives of the NFMP. The periodic review will determine whether any resource conservation, social, or economic issues exist that require a management response.

Examples of biological issues that would trigger further review and possible regulatory action are:

- catch that is projected to exceed the allowable catch limits
- any adverse or significant change in the biological characteristics of a nearshore finfish stock (for example: age composition, size composition, age at maturity, or recruitment)
- existing or imminent overfishing
- any adverse or significant change in the availability of forage for nearshore finfish or in the status of a dependent species
- an error in data or a stock assessment that significantly changes the estimates of impacts from current management

Examples of social or economic issues that may be addressed in the annual review are:

- gear conflicts, or conflicts between competing user groups
- extension of fishing and marketing opportunities as long as practicable improvements to product volume and flow to the consumer or user
- to increase economic yield
- to maintain or improve the safety of fishing operations
- to increase or decrease fishing efficiency
- to maintain or improve product quality
- to maintain or improve the recreational fishery
- to maintain or improve data collection, including means for verification
- to maintain or improve monitoring and enforcement
- to address any other measurable benefit to the fishery

The Department will present the results of this review to regional and statewide advisory bodies established under the NFMP. The Department will seek the views and recommendations of these bodies. The Department will present its recommendations and views of the advisory bodies to the Commission regarding the need for changes in management of the nearshore fishery. The Department will present the results of discussions with the advisory bodies together with its own recommendations for regulatory actions. In doing so, the Department will present the rationale, data and analyses in support of its recommendations for regulatory changes. The advisory

bodies also may make management recommendations to the Commission. The Commission will then determine whether to consider changes to the NFMP or to the regulations implementing it.

Advisory Committees

As mentioned earlier, the MLMA focuses special attention on constituent involvement in marine fisheries management—not only in the development of management plans but in other key activities such as research and implementation of management decisions. The MLMA calls for involving "all interested parties" in making decisions regarding marine living resources [7050(b)7] and for disseminating accurate information on the status of marine life and its management [7050(b)8]. More specifically, the MLMA calls for developing an open decision-making process that seeks the advice and assistance of interested parties so as to consider relevant information including local knowledge [FGC §7056 (h)]. The MLMA also calls specifically for involving constituents in preparing fishery management plans [7076a].

Regional

As described later, the NFMP Project establishes four regional management areas. For each of these areas, the NFMP calls for establishing an advisory committee which will include representatives from interested constituent groups from within that region. While the exact composition of these advisory groups may vary, they are expected to include various sectors of the commercial fishing industry, recreational anglers and divers, environmental organizations, CPFV operators, scientists, and any other group or persons identified by the Commission or Department. Each committee will meet at least once a year with Department staff to discuss the status of nearshore resources and fisheries and recommendations for changes in the management of the nearshore fishery.

Statewide

The Department also may establish a statewide standing committee which may be similar to the regional committees in composition, to address specific management issues if a need for this committee is identified by the Department or the Commission.