

Heal the Bay

1444 9th Street  
Santa Monica CA 90401

ph 310 451 1550  
fax 310 496 1902

info@healthebay.org  
www.healthebay.org

January 18, 2011

John Laird, Secretary for Natural Resources  
Chair, California Ocean Protection Council  
California Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

Dr. Amber Mace  
California Ocean Protection Council  
California Natural Resources Agency  
1416 Ninth street, suite 1311  
Sacramento, CA 95814

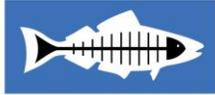
Sam Schuchat  
California Ocean Protection Council  
Coastal Conservancy  
1330 Broadway, 13th Floor  
Oakland, CA 94612

**RE: California Sustainable Seafood Initiative Draft Protocol**

On behalf of Heal the Bay, a non-profit environmental organization with over 13,000 members dedicated to making Santa Monica Bay and southern California coastal waters and watersheds safe and healthy for people and local ecosystems, we respectfully submit our comments on the California Sustainable Seafood Program Draft Protocol. Overall, we support the principles and criteria as proposed, but recommend the following revisions and additions to ensure that our state's natural resources, fisheries, marine ecosystems, and Californians benefit from this program.

Heal the Bay has been deeply involved in fisheries issues in California for over 20 years. We run a Pier Angler Outreach program, as part of the Fish Contamination Education Collaborative under the Monstrose Settlements Restoration Program, to educate pier anglers about health issues associated with PCB and DDT contaminated fish, and species-specific recommended limits for consumption. Through this United States Environmental Protection Agency award winning program, we have educated nearly 70,000 anglers at 8 piers throughout Los Angeles and Orange Counties over the past eight years. We also participated in the South Coast Marine Life Protection Act implementation process through membership on the South Coast Regional Stakeholder Group and Statewide Interest Group. Most recently, I served on the California Sustainable Seafood Initiative Advisory Panel (Advisory Panel) for the development of this protocol.

Using the Marine Stewardship Council's (MSC) fishery certification program as a baseline for California's sustainable seafood program with additional California-specific criteria is a reasonable approach to assessing the sustainability of our state's fisheries and fulfilling AB1217's mandates. We support the Ocean Protection Council (OPC) staff proposal to establish a mean score of 80 under the MSC standards, across all performance indicators. The MSC allows fisheries that score 60 to be certified with conditions



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for improvement. However, we believe this threshold for certification is too low to be fully protective of marine life stocks and ecosystems and is not acceptable for a California sustainability standard, as evidenced by the population declines of some MSC certified fisheries, such as the US trawl pollock fishery, after certification. The state of California should only certify fisheries that are truly sustainable and go beyond the regulatory baseline of meeting state and federal requirements. Furthermore, the program should not fund self-certification or simply act as a marketing program for California-sourced seafood, as this is not the intent of the legislation. It is important that any qualifying fishery be objectively evaluated and assessed before certification. A well-designed California sustainable seafood certification will provide economic strength and marketing opportunities for state fisheries that earn the label of 'California Sustainable', while protecting our valuable marine resources for future generations.

### ***Scoring California's Fisheries***

We support the OPC staff recommendation that a minimum threshold of scoring across performance indicators be set at 80. However, we recommend the California protocol include stronger scoring thresholds for some of the individual performance indicators to best protect our valuable coastal resources. We support staff's recommendation that the bycatch performance indicator be set at a minimum of 80 for California's sustainable seafood protocol, and further recommend that fisheries with incomplete stock information must also meet a minimum of 80 across all performance indicators. Furthermore, we recommend a minimum score of 80 across performance indicators for California sustainable certification if a fish stock is overfished or under management for stock rebuilding.

We also recommend that OPC require that all certified fisheries receive a score of 100, or zero bycatch of endangered, threatened, and protected (ETP) species, for the ETP species performance indicator. In light of the precarious and vulnerable status of ETP species, an additional level of protection is needed to provide those species a better chance of recovery. This would mirror the requirements for commercial fisheries under the Marine Mammal Protection Act to protect whales, dolphins, sea lions and other marine mammals. This would also benefit the critically endangered Pacific leatherback sea turtles that inhabit or travel through California's coastal waters.

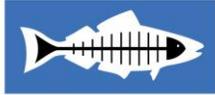
### ***Pre-Assessments of California Fisheries***

Conducting a pre-assessment of California fisheries under the sustainable seafood protocol is an important first step in the sustainable certification process. However, we recommend that the results of pre-assessments be made public and not kept confidential as suggested, given that this is a publicly-funded program. We also recommend that seafood testing for toxins, including mercury, DDT, and PCBs, be required and budgeted as part of the pre-assessment process and the results should be made public.

We further recommend that the OPC consider making funds available to improve fishery practices and conduct stock assessments for state fisheries that are unlikely to proceed to full certification. This would provide an incentive for improving sustainability and present a route for fisheries to ultimately achieve certification. This may provide a larger net benefit to California's fisheries than only using funds to certify fisheries that may already be sustainable.

### ***Contaminants and Seafood Safety***

We support the OPC staff recommendation for fish toxicity testing and posting the results on the Office of Environmental Health Hazard Assessment (OEHHA) website. Seafood testing for toxins, including



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mercury, DDT, and PCBS, should be required and budgeted as part of the OPC fishery pre-assessment budget to ensure that the state does not invest in sustainable certification for fisheries or fish species known to contain mercury, PCBs, or other toxins. Results of fish testing should be made public, whether or not the fishery proceeds to certification.

We also recommend that any fish or seafood product contaminated with mercury, PCBs, or other toxins be ineligible for certification under the California Sustainable Seafood Program if it poses a significant health risk as determined by OEHHA. Allowing contaminated fish to be ecolabeled sends mixed messages to the consumer, is a misuse of public funds, and may have associated liability concerns.

### ***Fishery Assessments Should be Peer-Reviewed***

Once a fishery reaches full assessment for certification, we suggest that OPC require the assessment to be peer-reviewed by fisheries scientists. The MSC fishery certification program includes peer review, which is an important check and balance within their system. Since MSC is the basis for California's sustainable seafood program, the state should also employ this element.

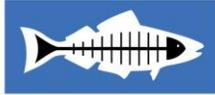
### ***Labeling & Traceability***

As discussed in Advisory Panel meetings, we recommend that California consider its own ecolabel, not the MSC label, and that it should be simple and not overly complicated for consumers to understand. We suggest that the port of origin should also be included on the seafood, as well as the food miles traveled (carbon "fin-print"). Given California's leadership on climate change and reduction of greenhouse gas emissions, the state's sustainable seafood program should incorporate consumer education on the carbon "fin-print" of state fisheries in terms of food miles traveled for catch and processing, fuel efficiency, and other appropriate criteria. We further recommend that carbon "fin-print" be incorporated in future refinements of the California sustainable seafood protocol. Sustainable seafood is becoming a popular topic among consumers, and there is a strong desire for more public information about individual fisheries and alternatives to non-sustainable options. Since seafood sustainability is based on a variety of factors and significant information will be used to support any California sustainable certified fishery, we recommend there be a strong online element of the program that provides detailed information for interested consumers.

Furthermore, we support the traceability standards as proposed, and believe they will add accountability and transparency to the California Sustainable Seafood Program. As the problem of seafood fraud continues to grow, it is important that chain of custody, and comprehensive tracking and data transparency from ship to plate be part of California's protocol. The proposed barcode for scan by smart-phone or computer is an especially innovative element that provides the added benefit of availability of tracking information to the consumer.

### ***Future Certification***

If the first phase of the program proves successful, we recommend that OPC consider moving forward with a second phase to evaluate seafood caught outside California or grown through aquaculture, but sold in restaurants and markets within the state. This seafood should be assessed for consistency with the California sustainability seafood protocol and appropriately labeled. Since sustainable seafood is a global issue, and many seafood products sold in California markets and restaurants are farmed or landed elsewhere, this would be a worthy extension of the program. Until such a time as the sustainable



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seafood certification program assesses all major sources and types of seafood sold in California, the ecolabel program will only promote sustainability and informed consumer choice for locally caught species.

**Conclusion**

California is leading the nation with ocean protection policies such as the Marine Life Protection Act and the Marine Life Management Act. Sustainable fisheries are vitally important to California's coastal communities and coastal economy, and these well-managed fisheries deserve consumer recognition. We are excited that the OPC is moving forward with the design and implementation of California Sustainable Seafood Program, and look forward to continued work in this area. We thank you for the opportunity to comment and appreciate your work on this important program. Please contact us if you have any questions or if we can help in any way.

Sincerely,

Mark Gold, D. Env.  
President