MSC comments: California Ocean Protection Council Draft Protocol, California Sustainable Seafood Initiative – Phase 1
January 17, 2011

The Marine Stewardship Council offers the following comments upon review of the Ocean Protection Council's draft protocol for the California Sustainable Seafood Initiative. We appreciate the opportunity to provide comment, and offer assistance in the future should questions arise.

MSC feels that our standard, which was collaboratively developed by hundreds of leading scientists, industry members, conservation organizations and others and is maintained by a diverse and leading group of experts, is well suited to serve as the basis for a California sustainable seafood program. The standard and protocols for independent, third-party assessment against the standard is a good measure for the sustainability of California's fisheries.

The proposal for a different 'California Standard,' specifically a suggested higher score for two performance indicators after a completed pre assessment, presents some challenges as currently outlined. Namely, implementation of this approach given the fact that specific scores are not produced at this stage. The MSC Standard is the most robust and globally accepted scientific standard, requiring a high level of performance to meet our fishery standard. The process by which OPC is proposing to measure against that standard may indicate a gap in understanding the MSC standard and the methodology by which fisheries are scored. The following specific comments clarify the MSC Standard and the MSC scoring methodology.

It is important to convey that a fishery certified to the MSC standard is a sustainable and well managed fishery and is eligible to use the MSC eco label upon satisfying chain of custody certification requirements and logo licensing agreements. The proposed 'California Standard' requiring a higher score on two performance indicators would not preclude a fishery in California, after a successful full assessment process, from attaining certification as prescribed in the MSC Fishery Certification Methodology and Fishery Assessment Methodology. Every fishery in the MSC program must proceed through the same assessment process.

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2	3rd paragraph: "Such labels add value to fisheries due to market demand and willingness to pay a premium price for seafood caught 'sustainably'"	In some cases a price premium may result from certification, but it is <u>not</u> always or only the case. Often, such a benefit is a result of a fishery marketing aggressively, among other tactics. In other words, it is not simply a matter of "I have a label, now pay more for this product." There are other benefits such as business risk management, competitive edge, access to new markets, and greater acceptance in markets where the MSC ecolabel is either required or highly desirable. Recommendation: add "in certain cases" before "a willingness to pay…"
2	Reference #1 at bottom of page: C. Roeim	Should be C. Ro<u>h</u>eim
3	Second to last paragraph, under Section I - Draft Sustainable Seafood Protocol: "In addition, the	The Marine Stewardship Council is the <u>only</u> seafood ecolabel that is consistent with <u>all</u> of the following: The Code of Conduct for Responsible

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	MSC certification program…"	Fishing (UN FAO); Guidelines for the Ecolabeling of Fish and Fishery Products from Marine Capture Fisheries (UN FAO); The Code of Good Practice for Setting Social and Environmental Standards (ISEAL); and the World Trade Organization Technical Barriers to Trade Agreement.
4	"This certification will also include a California component that adds specific conditions to the already rigorous MSC criteria. Fisheries not meeting the California standards following the pre-assessment will not be eligible to receive funding from the OPC…"	Please define "specific conditions" – presumed to be 'California standard' additions. How will it be known if a fishery meets the 'California standards,' especially following a pre-assessment (see below)?
4	"The pre-assessment will measure California fisheries against the MSC environmental standard for well-managed fisheries."	Only an MSC full assessment will measure, by way of scoring per an expert scientific team, a fishery against the MSC standard. An MSC pre-assessment is a valuable baseline tool for a fishery, providing an evaluation of the likelihood of a fishery passing a more detailed full assessment, and that step is highly recommended for fisheries considering entering full assessment. During a pre-assessment, key components of a fishery are identified, as well as obstacles or problems for potential certification. • A certifier (auditor) conducts a pre-assessment, not an expert assessment team as is done during a full assessment. Therefore, scores for individual MSC performance indicators are not generated at this stage (as only the expert assessment team provides scores during a full assessment). • After conducting limited interviews and reviewing information provided by a fishery (in a limited fashion), a Certifier renders an opinion as to whether any of the performance indicator scores are at risk of scoring below 80 and thus jeopardizing certification of the fishery in question. Deficiencies or areas of needed work are noted. • An MSC pre-assessment constitutes a limited review of a fishery by a certifier (auditor). Additional issues may arise during a full assessment and review by an expert scientific team. • Results of a pre-assessment do not typically influence an expert assessment team during deliberations in a full assessment process.

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5	California Standard: to receive OPC funding and use of a California label, two performance indicators are required to have higher scores than MSC requires (80 versus 60) after a pre-assessment.	As noted above, a pre-assessment does not produce specific scores for individual performance indicators. Rather, a certifier issues an opinion as to a) whether the fishery is a good candidate to meet the MSC fishery standard (i.e., state of readiness), b) flags potential issues, and c) using available (and limited) information on a fishery, evaluates each performance indicator with specific elements and issues a pre-assessment comment for each. If a certifier believes a particular element within a performance indicator is at risk of scoring <80 during a full assessment, a comment is made but a score is not issued. Such a comment would also include an opinion as to what an expert assessment team may need to review during a full assessment, in light of <80 score. It is not known how OPC would accurately determine a score from a pre-assessment; therefore, it is not known how the 'California standard' would be implemented as described.
5	California Standards: "Requiring California fisheries to meet these standards will help to ensure that only truly sustainable fisheries in California are certified and labeled as sustainable."	The MSC operates the most robust, scientifically driven wild capture fishery certification and eco labeling program in existence. Three MSC Principles are at the core of the program. Nested within these are 23 Criteria and within both, 31 Performance Indicators. A fishery is scored at the Performance Indicator level (scoring guideposts) with a focus on the outcomes of fisheries management (e.g., actual stock status of a target stock). Scoring is based on a 60, 80 and 100 system, normally in 5 point increments. During a full assessment, every Performance Indicator must achieve a score ≥60 or the fishery cannot pass the MSC standard. A score of 60 or higher indicates the fishery is operating at or above a sustainable level. To ensure an added layer of conservative management of the resource, any Performance Indicator scoring between a 60 and 80 is given a condition (outcome-based improvement action to ensure a score of 80 is achieved within a specified timeframe, not to exceed the five year life of the certificate). Every fishery with a condition must submit an Action Plan that explicitly outlines how and when the condition will be met. <u>The MSC program requires a higher level of performance than this minimum benchmark (60 score) to meet its Standard</u>:

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		Each of the three MSC Principles must score ≥80 as an aggregate weighted average across all Performance Indicators. This ensures the fishery is more resilient and better able to adapt to potential changes and risks such as fluctuation in stock levels, and so secure its long-term sustainability. It also means that a fishery, as ranked on a global scale, is achieving global best practice.
8	Marine Stewardship Council Criteria: "MSC has developed 'Principles and Criteria'…"	MSC did not develop the standard on our own. It was developed collaboratively over a two year period from 1997 to 1999, and involved more than 200 scientists, fishery experts, industry members, conservation organizations and members of the public. The standard has not changed but the methodology and guidance has improved over time as the MSC has gained experience, new scientific research has become available, and the MSC has made changes to improve certification consistency, quality, and assessment duration. All improvements have been made with the active engagement of a MSC's Technical Advisory Board and Board of Trustees, which include wide sector representation. Definitions of fisheries sustainability can vary widely and are quite complex when put in the context of fisheries globally. The MSC's definition is encompassed in the MSC Standard and the scoring guidance that is provided to and used by certifiers to measure fisheries during an MSC full assessment. The MSC standard is the most widely accepted global standard for fisheries sustainability in use today, and the most technically relevant. The MSC's Technical Advisory Board and Board of Trustees regularly review issues that impact fisheries sustainability and make adjustments, when deemed necessary. One recent example, where the MSC is making changes to guidance is in the area of work with Low Trophic fisheries, where after measured and thorough debate and deliberation the MSC has provided revised guidance to certifiers on Low Trophic fisheries that are seeking MSC certification. This change in guidance was the result of lengthy technical discussions, two technical workshops, significant staff work, broad stakeholder input from MSC's Stakeholder Council and other interested stakeholders, and a policy decision by the MSC TAB and Board. In other

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		words, changes to MSC's guidance are not taken lightly, but require strong technical review and discussion from many interested stakeholders.
8	Steps to becoming certified under MSC	A certifier is not appointed (and certainly not by MSC): a certifier is hired by a fishery 'client' (representative of the fishery) after a period of due diligence. An expert assessment team of scientists proficient with the subject fishery is proposed by the certifier, allowing stakeholders to comment on the suggested names. Once agreed upon, the assessment team carries out the task of scoring a fishery and producing defensible and explicit rationale for each performance indicator. Assessments are conducted by independent third-party certifiers who engage additional scientific experts on evaluation teams. Assessment reports are peer reviewed by an additional set of independent scientists whose experience is equivalent to the assessment team. This peer review, similar to that in scientific journal articles, is one of the important checks and balances within the MSC program. MSC has set the standard and methodology but remains neutral on scoring and outcomes throughout all aspects of a fishery's assessment. MSC's role is to ensure proper application of the established methodology, including a meaningful and impactful exchange of information among all stakeholders. This safeguards the standard and provides assurances for everyone involved, from stakeholders to government regulators to fishery managers.
9	"The MSC bases their decision to certify fisheries on the Principles and Criteria for sustainable fishing"	The MSC <u>does not</u> make any decision regarding certifying a fishery: an independent third party certifier issues a determination to certify or not, and issues the actual certificate.
10	MSC scoring process: *italics section*	The <u>first</u> italicized section on p 10 describes a process no longer used in an MSC assessment: specifically, performance indicators are no longer created by an assessment team so as to tailor specifically to a fishery. This process was employed until 2008, before the development of the Fisheries Assessment Methodology and default assessment tree (i.e., default performance indicators and scoring guideposts to be used by each fishery) in 2008.

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10,11	Criticism of MSC	
	• Alaska Pollock catch of 1 million MT, recent population declines yet fishery is certified	This fishery is probably the best studied, analyzed and managed fishery in the U.S. The science behind it is not rivaled by many fisheries globally. Local, state and federal agencies and industry work together collaboratively. The annual harvest level is set conservatively below biological catch levels set by management agencies; by-catch levels are extremely low with Pollock being 99.5 percent of what is caught in the nets; there is 100 percent federal observer coverage and a quota system that allocates a portion of the Pollock catch to local Alaska communities. The marine environment that supports Alaska Pollock is highly variable and that variability follows cycles that support above or below average periods of recruitment to the fishery. Abundance of Alaska Pollock has declined over the period noted, but that corresponds to a period of below average recruitment and is anticipated in the science and management. The biomass that can be supported by the marine system varies and the relative proportion of current biomass compared to that that the system can support has increased in the last 12 months from 22% of unfished biomass to 27% of unfished biomass. The stock is rebuilding and continued improvements in Alaska Pollock biomass is expected as favorable conditions prevail. Still being very conservative, managers have recently significantly increased the allowable catch for Alaska Pollock due to increases in biomass measurements.
	• Biomass declines in Pacific hake fishery since peak in 1984, yet fishery is certified	Fishery harvests are reduced to precautionary levels when stock assessment models show negative trends; the 89% decline is tied to a single year highest ever recorded biomass of Pacific hake. Like Alaska Pollock, this fishery is also highly variable and large fluctuations are seen in the ecosystem's ability to support Pacific hake. While variable, the dynamics to Alaska Pollock differ. An excerpt from the certifier's Public Certification report: "Pacific hake spawning biomass peaked in 1984 at 4.6 million mt (5.1 million for the alternative model) and declined rapidly to 0.88 (1.0) million mt in 2000

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		(Helser *et al.*, 2006). During this time the population experienced increasing fishing mortality and few large recruitment events. Spawning biomass increased to 1.68 (2.1) million mt in 2003 due to the presence of the strong 1999 year class, but has since declined as both the U.S. and Canadian fisheries exploit this dominant year class. The spawning biomass in 2007 was estimated to be 1.15 million mt, representing approximately 32.0% (~95%CI range from 24.3 to 36.7%) of the unfished level under the base model. Under the alternative model, spawning biomass is 1.6 million mt with an associated relative depletion of 39.8% (~95%CI range from 30.7% to 48.8%). Current management is maintaining this fishery such that overfishing is not occurring and to ensure the stock fluctuates around target reference points. It can be seen that biomass estimates modelled in the mid-1980s were the highest recorded and the decline not entirely attributable to fishing pressure." Catch levels are currently being set conservatively to take into account fluctuations in biomass estimates.
	• Antarctic toothfish fishery certified in 2009 despite very little biological data	An assessment against Principle 1 looks very carefully at these questions. Fishing must proceed cautiously, so that the toothfish resource is not put at risk, and that scientific understanding is progressively built-up to enable management measures for the longer-term to be determined. This precautionary approach is required for any CCAMLR fisheries designated as 'exploratory'. It is a definition that ensures that prescribed and conservative harvesting strategies are employed during the early years of the fishery Precautionary management measures must take into account the incomplete state of knowledge about the stock and ecosystem. Vessels that want to participate in the fishery must abide by CCAMLR's precautionary management regime, which includes strict harvest control rules, mandatory data collection to improve understanding of the resource's biology and ecology and to support annual stock assessments and other research and mandatory observation of fishing activities and requirements to avoid incidental by-catch.

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		In the Ross Sea toothfish assessment, the certifier found the precautionary nature of the conservative management framework implemented by CCAMLR - recognized as a world leader in ensuring high levels of precaution are in place, and in providing incentives for further research - takes into account much of the uncertainty in knowledge, in addition to initiating research to reduce uncertainties and improve understanding. The assessment resulted in two conditions of certification that link with these concerns, including a need to conduct further research on the biology and ecology of the stock and the need to widen the tagging program in place to improve biomass estimates as part of the stock assessment process.
	• Third party certifiers scoring fisheries high in the absence of information to be considered sustainable; certification and label not removed if fishery experiences large population fluctuations	Scores are produced by an expert scientific assessment team after reviewing all available data and information, discussions between the assessment team members weighing the balance of evidence in a logical fashion, and arriving at a joint agreed score. Detailed and explicit rationale statements are required for every score given (e.g., to what degree has each scoring guidepost been met [or not met] by a given fishery). Some performance indicators, including the stock status indicator, may be evaluated with the MSC's Risk Based Framework when data deficiency is encountered. The MSC assessment process includes numerous checks and balances with regard to scores generated and a certifier determination to certify a fishery to the MSC standard. These include a public comment period tied to the release of a draft report, separate scientific peer review of reports, a public comment period tied to a final report, and a formal objections period and adjudication process. If an engaged stakeholder believes scores awarded by an assessment team are not justified, they have the opportunity to engage and provide arguments during several stages of a full assessment process. Finally, annual surveillance audits are required for all certified fisheries during the five year life of a certificate. During each audit a third party certifier assesses progress toward meeting any conditions as well as identifying any significant changes in a fishery (changes in the scientific base of information, new information describing major impact of a fishery, major changes in

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		management). If major changes have occurred post certification, a certifier is required to a) report and record the existence of the issue, and/or b) immediately conduct a limited assessment to determine if a full re-assessment of a fishery is warranted to continue the certification status, and/or c) raise further conditions.
	• OPC vote in public meeting re funding to certify or re-certify, 'most likely after an independent scientific review by the Ocean Protection Council Science Advisory Team.'	It is unclear as to the precise role of OPC's Science Advisory Team in this example. Is OPC proposing the Science Advisory Team review the certifier's final report and determination to certify, and recommend funding based on this review (i.e., meeting 'California Standard')? Or would this procedural step occur after a pre-assessment, even though specific performance scores are not generated? Some suggested roles an expert scientific body such as OPC's Science Advisory Team might consider during an MSC assessment process, primarily in a technical capacity: compile and submit a fishery client submission (all data/information to support a fishery's candidacy in the assessment process); if needed, design and conduct research with a fishery/other stakeholders to plug gaps identified in a pre-assessment report; and participate as a stakeholder during a full assessment.
	• Growing debate in scientific journals such as *Nature*; question about rigor and actual sustainability of fisheries certified to MSC standard.	As a response to the opinion piece in *Nature* , please see the following: sept 2010 nature letters.pdf 4671047a(2)Rupert letter in Nature Octol
11-13	California Standards: discussion similar to above; listing of the two performance indicators in entirety, with proposed OPC benchmark at 80 (versus 60) suggested as point where funding/assistance would only occur	The preceding comments present some detail with regard to the scoring process during an MSC full assessment. Specifically, performance indicator scores between 60 and 80 are required to have conditions, to move the fishery to at least an 80 mark within a specified time frame during certification (not to exceed the five year life of a certificate); each of the three MSC Principles must score ≥80 for every fishery, as a weighted average across all Performance Indicators, otherwise certification cannot be granted. It is important to convey that a fishery certified to the MSC standard is a sustainable and well managed fishery and is eligible to use the MSC eco label

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		upon satisfying chain of custody certification requirements and logo licensing agreements. The proposed 'California Standard' requiring an 80 score on two performance indicators (identified after a pre assessment) before funding/assistance is granted would not preclude a fishery in California, after a successful full assessment process, from attaining certification as prescribed in the MSC Fishery Certification Methodology and Fishery Assessment Methodology. Every fishery in the MSC program must proceed through the same assessment process.