State of California

Memorandum

Date: January 7, 2009

To: South Coast Regional Stakeholder Group

From: **Nancy Foley, Chief**
Law Enforcement Division
Department of Fish and Game

Subject: Law Enforcement Division's guidance on catch and release fishing in MPAs

This memorandum has been developed based upon the extensive professional experience of Enforcement Staff related to marine enforcement.

Analysis and Discussion:

Catch and release fishing in MPAs can be possible if consideration is given to several important issues.

1) MPA designation: The act of catch and release fishing by definition constitutes the "take" of the fish. Fish and Game Code Section 86 states "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. Therefore, any area designated as a no take area could not legally allow for catch and release fishing. A State Marine Reserve could not allow catch and release fishing. A State Marine Park or Conservation Area on the other hand could allow some catch and release fishing with some restrictions.
2) If a vessel wants to engage in catch and release fishing, the vessel cannot have any fish on board, even if the fish were caught in legal area. In other words, if they choose to catch and release fish, they cannot catch and keep any fish and have them in possession on the boat while catch and release fishing. If a boat is catch and release fishing in an authorized area, any fish in their possession will be presumed taken from the catch and release area and subject them to a citation. It should be clear in the regulations that fish may only be possessed long enough for the fisherman to remove the hook and return the fish to the water. Placing any fish in any type storage container like a fish box, live well, or bucket would be illegal.
3) Look at how the regulations for trout catch and release are written in Title 14 Section 7.50. The area is defined with time frames(open season) if needed, along with the important gear restriction, "only barbless hooks may be used", or "only artificial lures with barbless hooks may be used, and finally, making the bag limit for the area zero fish. This zero fish bag limit does not allow a person to keep any trout or salmon, thereby creating a catch and release opportunity. Title 14 Section 7.00 in part states "In waters where the bag limit for trout or salmon is zero, fish must be released unharmed, and should not be removed from the water."
4) The questions of where catch and release fisheries can happen, and which species should be considered for a catch and release fishery are biological in nature. Enforcement would be happy to provide any input on enforcement issues related to any specific species being considered for a catch and release inside a MPA.