

APPENDIX C  
OTHER APPLICABLE LAW

Endangered Species Act of 1973

The purposes of the ESA are to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved, to provide a program for the conservation of such endangered and threatened species, and to take such steps as may be appropriate to achieve the objectives of the treaties and conventions created for these purposes. The Council and NMFS determined that the conservation and management measures in the framework amendment had no adverse impact on any threatened or endangered species in the Council's fishery management area (jurisdiction) and did not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat of any such species.

Issue 1 of the FMP amendment should assist the Council to provide a more focused and effective effort in support of salmon habitat preservation, restoration, and enhancement. This maintenance and improvement of the natural productive base of the salmon resource should directly enhance the consistency of the FMP with the purposes of the ESA. Issue 2 should have no direct or indirect affect on achieving the purposes of the ESA.

Marine Mammal Protection Act of 1972

The purpose of the MMPA is to protect marine mammals and to prevent certain marine mammal species and stocks from falling below their optimum sustainable population which is defined in Section 3(8) as:

. . . the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.

Recreational and commercial salmon fishermen occasionally will have an incidental involvement with marine mammals. Any commercial fishermen that may expect to become involved with marine mammals incidental to normal fishing operations should apply to NMFS for a free Certificate of Inclusion under the appropriate MMPA General Permit. The Certificate of Inclusion provides for the incidental take of marine mammals as authorized by the General Permit and applicable federal regulations (50 CFR 216.24).

MMPA General Permits that provide for the incidental take of marine mammals during commercial salmon fishing operations off the west coast have been issued by NMFS for a five-year period ending December 31, 1988. Commercial fishing under the eighth amendment to the FMP will not be any different than what was anticipated and provided for in the issuance of the General Permit.

Pacific Northwest Electric Power Planning and Conservation Act of 1980

There are two major fishery resource conservation purposes of the NPPA. The first is to protect, mitigate, and enhance the fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its

tributaries, particularly anadromous fish which are of importance to the social and economic well-being of the Pacific Northwest. This purpose is addressed by the Columbia Basin Fish and Wildlife Program, adopted by NPPC on November 15, 1982 and as amended October 10, 1984 and February 11, 1987.

The second purpose is to protect, mitigate, and enhance the fish and wildlife, including related spawning grounds and habitat throughout the northwest, and including provision of "sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish." This purpose is addressed in the wildlife program and the Regional Energy Plan adopted in April 1983.

The Council, NMFS, and treaty Indian tribes have participated with NPPC (established by the NPPA) in developing and carrying out the fishery provisions of the NPPA. The objectives of these fishery related activities were found to be consistent and compatible with the conservation and management goals of the salmon FMP. Issue 2 in this amendment will not alter this consistency. Issue 1 should enhance consistency with its clarification of habitat needs of the salmon resource and the Council role in habitat matters.

#### Pacific Salmon Treaty Act of 1985

The PSTA was established to implement the Pacific Salmon Treaty between the U.S. and Canada. The treaty provides for bilateral cooperation in salmon management, research, and enhancement by establishing a bilateral commission with coastwide responsibilities for management of "intercepting" salmon fisheries. The PSTA provides for coordination with the Council managed fisheries by requiring that at least one representative to the Pacific Salmon Commission's southern panel be a voting member of the Council and by requiring consultation with the Council in the promulgation of regulations necessary to carry out the obligations under the treaty. Nothing in the current salmon FMP has been identified as inconsistent with the PSTA and the FMP amendment issues do not provide for a change to the harvest rates on any intercepted stocks. The additional emphasis provided by Issue 1 on importance of productive habitat to the salmon resource supports the intent of the PSTA to maintain production of stocks at optimal levels.

#### Paperwork Reduction Act of 1980

The major purposes of the Paperwork Reduction Act of 1980 are (1) to minimize the federal paperwork burden for individuals, small businesses, state, and local governments; (2) to minimize the cost to the federal government of collecting, maintaining, using, and disseminating information; and (3) to ensure that the collection, maintenance, use and dissemination of information by the federal government is consistent with applicable laws relating to confidentiality. The Council has determined that neither the FMP amendment nor the regulations that will implement the amendment will involve any federal government collection of information that would violate the purposes and requirements of the Paperwork Reduction Act.