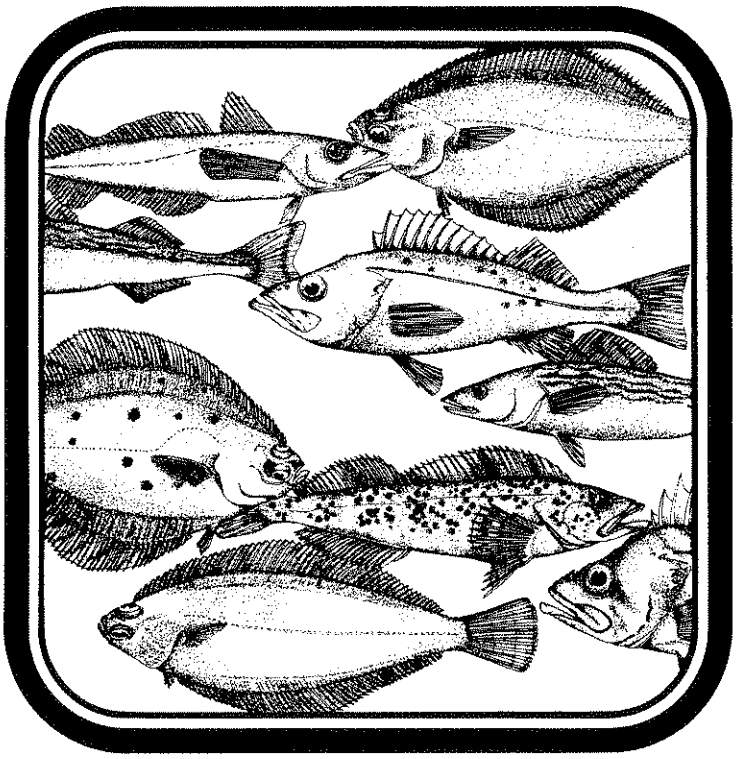
SECOND AMENDMENT TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN INCORPORATING THE ENVIRONMENTAL ASSESSMENT, REGULATORY IMPACT REVIEW/REGULATORY FLEXIBILITY ANALYSIS, AND REQUIREMENTS OF OTHER APPLICABLE LAW



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LIST OF PREPARERS

These amendment issues to the Pacific Coast Groundfish Fishery Management Plan were prepared by a team of scientists with special expertise in groundfish resources and management. The issues being analyzed resulted from a variety of sources including a public "scoping" session and several Council meetings at which items that might be included in a fishery management plan amendment were considered.

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LIST OF ACRONYMS AND ABBREVIATIONS CONTAINED IN THE AMENDMENT

ABC	acceptable biological catch
EA	environmental assessment
CDFG	California Department of Fish and Game
Council	Pacific Fishery Management Council
Commission	Oregon Fish and Wildlife Commission
CZMA	Coastal Zone Management Act
DOC	Department of Commerce
DOE	Department of Ecology
EFP	experimental fishing permit
EIS	environmental impact statement
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FCZ	fishery conservation zone
FMP	Pacific Coast Groundfish Fishery Management Plan (January 1982)
GAP	Groundfish Advisory Subpanel
GMT	Groundfish Management Team
HG	harvest guideline
IPHC	International Pacific Halibut Commission
LCDC	Land Conservation and Development Commission
JV	joint venture
MFCMA	Magnuson Fishery Conservation and Management Act
MMPA	Marine Mammal Protection Act
MSY	maximum sustainable yield
mt	metric ton
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NWAFC	Northwest and Alaska Fisheries Center
OY	optimum yield
RIR/RFA	regulatory impact review/regulatory flexibility analysis
SSC	Scientific and Statistical Committee
TALFF	total allowable level of foreign fishing
WCZMP	Washington Coastal Zone Management Plan

EXECUTIVE SUMMARY

This amendment analyzes three issues relevant to the "Pacific Coast Groundfish FMP and EIS for the California, Oregon, and Washington Groundfish Fishery." The FMP provides a framework for managing groundfish species in the FCZ off Washington, Oregon, and California and was implemented by the Secretary of Commerce on September 30, 1982. Changes in regulations that implement the FMP result from these analyses.

Background

These three amendment issues address the need to alter regulations that control the fishery and groundfish resources as well as modifying provisions in the FMP. They are intended to provide the Council with added flexibility to respond to recent scientific information which more accurately reflects the status of the sablefish resource and fishery, and changing circumstances and conditions in the groundfish fishery. These issues were raised in a public "scoping" session in July 1985, and in subsequent Council discussions of items which may require an FMP amendment.

Issues in the FMP Amendment

In the draft of this document released for public comment in August 1986, four issues were considered for amending the groundfish FMP. Based on comments received and other persuasive considerations, the Council selected **status quo** as its preferred alternative for one of the issues and, therefore, this issue is omitted here. Only the three issues which amend the FMP are included in this document.

Two options are analyzed for each of the remaining three issues considered in amending the FMP: (1) delete the sablefish OY in the Monterey Bay subarea, (2) gear regulations flexibility, and (3) marking requirements for setnets and commercial vertical hook-and-line gear. Alternative actions (options) being considered in each of these issues are briefly described below.

Issue 1 - Delete the Sablefish OY (Quota) in the Monterey Bay Subarea

Sablefish currently are managed under a coastwide quota which includes a separate quota for the Monterey Bay subarea (36°30' to 37°00'N latitude). Information available at the time of FMP development seemed to indicate that sablefish in the Monterey Bay subarea were a separate stock. However, recently analyzed sablefish tagging information now indicates that a closed population in the subarea does not exist.

Two options were considered: (1) status quo, i.e., retain a separate numerical OY for the Monterey Bay subarea within the coastwide OY established for sablefish and (2) delete the separate OY for sablefish in the Monterey Bay subarea. The Council adopted Option 2.

Issue 2 - Gear Regulations Flexibility

Management of the Washington, Oregon, and California groundfish fishery has become more complex as the number and kinds of management measures increase. Gear specifications for groundfish were established after substantial

deliberation by the Council and its advisors. Except under the "Point of Concern" mechanism, major changes in gear specifications require FMP amendment. Since the amendment process is cumbersome, time consuming, and expensive; this issue considers a framework mechanism to recommend gear changes without FMP amendment.

Options considered were: (1) status quo, i.e., except under the "Point of Concern" mechanism, only minor changes in gear regulations can be made without FMP amendment and (2) changes in gear regulations may be made through the framework process. The Council adopted Option 2.

Issue 3 - Marking Requirements for Setnets and Commercial Vertical Hook-and-Line Gear

Marking requirements were originally imposed to prevent entanglement of gear, both mobile and fixed, since both gears often fish on the same grounds and compete for space. Current regulations require that the terminal ends of fixed gear (trap and longlines) be marked at the surface with a pole and flag, light, radar reflector, and a buoy identifying the owner. In the past few years, the number of setnets and commercial vertical hook-and-line gear has increased and the need for marking these gears similarly to other fixed gear is recommended.

Options considered were: (1) status quo, i.e., no federal marking requirements for setnets and commercial hook-and-line gear and (2) setnets and commercial hook-and-line gear be marked the same as trap and longline gear. The Council adopted Option 2.

ISSUE NUMBER 1 - DELETE THE SABLEFISH OPTIMUM YIELD (QUOTA) IN THE MONTEREY BAY SUBAREA

Sablefish are a numerical OY species in the FMP and have been managed with an annual overall coastwide quota which includes a separate quota for the Monterey Bay subarea. Since implementation of the FMP in 1982, the annual coastwide OY has ranged from 13,600 to 17,400 mt including the Monterey Bay subarea OY of 2,500 mt. However, sablefish landings in the Monterey Bay subarea since 1980 have been well below the 2,500 mt OY and removal of the separate OY for this area is recommended.

Background

The Monterey Bay subarea (36°30' to 37°00'N latitude) has been a productive site for sablefish (Table 1). A longline fishery was replaced by an intensive trap fishery in the early 1970s and landings peaked at 3,227 mt in 1976. A conservation problem was perceived at that time and an annual OY of 2,500 mt for Monterey Bay was adopted in the FMP. During the FMP development process, it was prudent to constrain the fishery based on the evidence at hand although complete data were lacking for an assessment of the stock.

Knowledge of the stock remains incomplete. However, tag recovery data available at the time the FMP was originally drafted, which indicated that sablefish in the Monterey Bay subarea were a separate stock, has been refuted. Existence of a separate stock was presumed because 72 of 73 recoveries of sablefish tagged in the subarea were recaptured there, (Osada and Caillet, 1975). Additional tagging studies have been carried out since the Osada and Caillet study by Wespestad et. al. (1978), Shaw (1984), and Shaw (1986). Of 417 sablefish recovered from fish tagged off San Diego, 159 (38 percent) moved more than 25 miles. Forty-five (11 percent) of the total recoveries (and 28 percent of the fish that moved) were recaptured in the Monterey Bay subarea. Another sablefish tagged off Point Buchon, California (Conception area) moved 111 miles north to the Monterey Bay subarea. While most sablefish that were recaptured more than 25 miles from their original tagging site moved to the north, there were seven recoveries in the Monterey Bay subarea of sablefish released between Bodega Bay, California (Monterey area) and Cape Arago, Oregon (Columbia area). Four were tagged off Bodega Bay 100 miles north. Another was tagged off Point Arena, California (Monterey area), 189 miles north. Another was tagged off Trinidad Head, California (Eureka area), 280 miles north and another was tagged off Cape Arago, 400 miles north. No releases of tagged sablefish have occurred in the Monterey Bay subarea during recent years. The movement of sablefish to the Monterey Bay subarea from other areas indicates that a closed population does not exist in the Monterey Bay subarea.

Since the peak year (1976), landings from the Monterey Bay subarea displayed a downward trend, far below the 2,500 mt OY (Table 1). Landings decreased sharply after 1979. The decrease coincided with a deterioration in the market in 1980 and 1981. The number of traps set in the subarea between 1976 and 1979 averaged 30,583. The 1980-1983 average was 11,481 (calculated from Table 7 of Hardwick, 1985). Decreased landings may have resulted from a combination of decreased catch per effort and effort. A slight increase in landings to 975 mt occurred in 1982 (Table 1), when demand for small sablefish

increased. However, this 12 percent increase over 1981 did not match the 61 percent increase in coastwide sablefish landings during the same period. Most sablefish landed from the Monterey Bay subarea are taken in fixed gear, while the coastwide increase in 1982 was largely due to catches by the trawl fleet. The fishing grounds within the Monterey Bay subarea include the Monterey Sea Valley where trawl effort is extremely low.

Table 1. Sablefish landings from the Monterey Bay subarea.

Year	mt	Year	mt
1973	403	1979	2,779
1974	2,640	1980	767
1975	3,146	1981	870
1976	3,227	1982	975
1977	2,271	1983	631
1978	2,475	1984	552

Because landings from this subarea have not approached the OY, the fishery has not been monitored on a real-time basis. To adequately monitor this subarea would require a substantial increase in sampling costs.

In addition, it has been difficult to determine if landed sablefish actually were caught in Monterey Bay since sablefish also are caught in adjacent waters. For the most part, landing tickets record only the place of landing, not the place of catch.

Since FMP implementation, the Monterey Bay subarea OY has not been achieved. The coastwide sablefish fishery has expanded in other areas and catches in the Monterey Bay subarea are likely to remain low even without an independent OY. It is no longer believed that the Monterey Bay subarea contains a separate stock of sablefish and catches attributed to the Monterey Bay area may be unreliable. Accordingly, removal of the separate OY for sablefish in Monterey Bay is recommended.

Options

Option 1 - Status Quo

An OY in the Monterey Bay subarea which is included in an overall coastwide OY for sablefish is specified.

Option 2 - Delete the Monterey Bay Subarea OY

Delete the separate OY for sablefish in the Monterey Bay subarea.

Impacts

The fishery for sablefish in the Monterey Bay subarea is not likely to result in attainment of the original OY under either option. No impacts on the biological environment are associated with either option. Neither option changes the amount of sablefish that may be landed coastwide, nor will there be any impact on the physical environment.

Option 1 - Status Quo

The OY provision for the Monterey Bay subarea has had no impact on fishing activities since the FMP was implemented because sablefish landings from the area have never even approached the OY. It is conceivable that subarea landings could approach OY. If so, costs would be incurred due, partly, to the necessity to closely monitor the fishery, and to additional administration necessary to regulate the fishery. Also, the fishery would be closed if OY is reached. In this case, there is the possibility of discards due to the prohibited status of sablefish when OY is achieved. However, the level of discards likely to result are insignificant. Also, costs could be incurred by the fishing industry as the fleet shifts fishing operations to other areas still open to the taking of sablefish if OY were reached in the Monterey Bay subarea.

Option 2 - Delete the Monterey Bay Subarea OY

Under this option there are possible cost savings as it would not be necessary to manage Monterey Bay separately; data collection and monitoring costs (undetermined because they were never incurred) as well as the small administrative cost ($500) of publishing a notice of closure in the Federal Register would be avoided. In addition, this fishery would not be subject to local closing due to achievement of OY, thereby eliminating the possibility of unnecessary discards after OY is reached. Conservation objectives would be met in the Monterey Bay subarea with a coastwide OY under the current and projected nature of the fishery because available data indicate that a closed population in the subarea does not exist. Any additional costs incurred under Option 1 would be eliminated by Option 2. No biological impacts are expected since it is now believed that Monterey Bay sablefish are not a separate stock.

The principal impact of Option 2 simply would be to make the language and tables in the FMP consistent with scientific reality and actual management practices. Under Option 2, the regulations at 50 CFR 663 would be simplified by deleting references to Monterey Bay. Enforcement also would be simplified somewhat as there would be no need to prove if sablefish were caught in (or out of) Monterey Bay.

There is no impact on the physical environment under either option.

Interaction With Other Amendment Issues

There is no interaction between this issue and any other issue considered in this amendment.

Recommendation

The Council adopted Option 2.

FMP References

Section 1.4.2.3. Sablefish, page 1-16
Section 5.3.4. Sablefish, page 5-9
Section 6.4.1. Sablefish, page 6-10

Literature Cited

Hardwick, James E. 1985. "Condition of the Sablefish Resource off California in 1985." Status of the Pacific Coast Groundfish Fishery Through 1985 and Recommended Acceptable Biological Catches for 1986:21. Pacific Fishery Management Council Groundfish Management Team.

Osada, E. K., and T. M. Caillet. 1975. Trap Caught Sablefish in Monterey Bay, California. CAL-NEVA Wildlife Trans. p. 56-73.

Shaw, Franklin R. 1984. "Data Report: Results of Sablefish Tagging in Waters Off the Coast of Washington, Oregon and California, 1979-1983." NOAA Technical Memorandum. NMFS F/NWC-69:79.

Wespestad, V. G., K. Thorson, and S. A. Mizroch. 1984. Movement of Sablefish, (Anoplopoma fimbria), in the Northeastern Pacific Ocean as Determined by Tagging Experiments (1971-1980). NMFS, Bull. 81:415-420.

Regulations

50 CFR 663.21(a)(2) Pacific Coast Groundfish Fishery Regulations.
50 CFR 663.27(b)(3) Pacific Coast Groundfish Fishery Regulations.

ISSUE NUMBER 2 - GEAR REGULATIONS FLEXIBILITY

Gear specifications for groundfish in the Washington, Oregon, and California region were established after substantial deliberation by the Council, GMT, GAP, and industry working groups. Except under the "Point of Concern" mechanism (50 CFR 663.22[a]), major changes in gear specifications require FMP amendment. Since the amendment process is cumbersome, time consuming, and expensive, the Council is recommending a framework mechanism to enable gear changes to be made without FMP amendment.

Background

During development of the FMP, two major concepts evolved to deal with the management of west coast groundfish fisheries. These were numerical OY (quota) designation for six species which required special consideration and a non-numerical OY designation for all other species. The non-numerical OY approach was developed by the Council as a means of managing interrelated species of the demersal finfish complex. The goal of the Council in multi-species management is to preserve the mix of species at sufficient abundance to assure adequate spawning productivity of the group as a whole.

Non-numerical OY, which applies to most groundfish species, is defined as all fish which are harvested under regulations adopted by the Council. It is not a predetermined numerical value. This OY provides flexibility in harvesting various species while taking into account established conservation principles. Gear regulations were formulated with the goals of protecting juveniles and maximizing yield per recruit as well as to minimize operational difficulties in the fishery. It was believed that gear regulations provided sufficient control of the fishery on non-numeric OY species, particularly flatfish, to meet conservation objectives. Gear regulations are also a component for the control of fisheries on OY species.

Gear regulations (50 CFR 611.70, 50 CFR 663.2, and 50 CFR 663.26) are specified for commercial and recreational groundfish fishing. Gear regulations include, but are not limited to, definitions of legal gear, mesh size specifications, codend specifications, and marking requirements for fixed gear.

Gear regulations currently may be modified under the framework mechanism (50 CFR 663.22, 50 CFR 663.23) which allows various management measures to be applied without FMP amendment in order to minimize biological stress on a stock without undue delay. (Gear changes have not yet been used for this purpose, but strong interest has been expressed in examining the effects of changes on mesh size in hope of reducing trip limits and discards.)

There also are sound reasons for modifying gear regulations that are not related only to biological stress. For example, gear marking requirements for some fixed gears were imposed by the first amendment to the FMP in order to reduce gear conflicts and enhance retrieval of lost gear; Issue 3 in this amendment also examines surface gear marking requirements for the same reasons. Another example is changes in gear technology which render current regulations unnecessarily burdensome on the industry. The FMP initially required a 1.75-inch diameter footrope on midwater trawls (which would make that gear more susceptible to damage if dragged on the sea floor) to

discourage use of small mesh midwater trawls on juvenile, bottom-dwelling flatfish. However, the configuration of midwater trawls changed over the years since FMP implementation, providing space for juvenile fish to escape, so that dragging the net on the sea floor would not be detrimental to the stocks. Moreover, catch records showed that midwater gear was not used to harvest significant amounts of bottom-dwelling fish. Deletion of the footrope requirement had to be made by FMP amendment, forcing fishermen to continue using unnecessarily expensive and fragile gear until the amendment could be implemented. Another reason for modifying gear could be to change the catch composition of species, encouraging more selective harvest of desired species while minimizing the need to sort and discard unwanted species. Although there are biological implications to these changes, they are not necessarily related to biological stress. Thus, there clearly are valid reasons for modifying gear requirements more quickly than the FMP amendment process would allow and for reasons including but not limited to reducing biological stress.

Options

Option 1 - Status quo

Except under the "Point of Concern" mechanism, only minor changes in gear regulations can be made without plan amendment.

Option 2 - Framework Process for Changes in Gear Regulations

Gear regulations may be changed at any time during the year, not only for conservation purposes according to the following procedures.

The framework process may be initiated by members of the general public, fishing industry, Council advisory entities, or government agencies petitioning the Council to consider a change in gear regulations. The petition must be accompanied with documentation that the proposed changes in gear regulations are consistent with the objectives in the groundfish FMP and would result in substantial improvements in the groundfish fishery. Substantial improvements may exist when:

- sustainable landings are increased
- the value of landings is increased
- gear conflicts are reduced
- fishing efficiency is increased

The Council, after gathering information on the petition including consultation with the GMT, GAP, and SSC, will decide if the petition merits further study. If meriting further consideration, the Council will publicly announce its intent to consider the change and will direct the GMT to prepare a report on the proposed change.

The report will contain an evaluation of the factors presented in the petition and consider whether the change would promote achievement of FMP objectives which may include consideration of changes in catch composition, yield per recruit, cost to the fishing industry, impacts on any other management

measures and other fisheries, and any other relevant biological or socio-economic information. In addition, it will consider biological and socio-economic implications of items listed above and will include a recommended schedule of implementation.

The Council will consider the GMT's report and other information brought forth from written comments and at public hearings and determine whether or not the change would result in substantial improvements to the groundfish fishery and is consistent with objectives of the FMP. Any changes in gear regulations would be scheduled so as to minimize costs to the fishing industry, insofar as this is consistent with achieving the goals of the change.

The regional director of NMFS (under a delegation of authority from the assistant administrator for fisheries, NOAA) will review the Council's recommendation, supporting rationale, public comments, and other relevant information and, if he concurs in the recommendation, will develop regulations in accordance with the recommendations. He also may reject the recommendation providing written reason for the rejection.

If the regional director concurs in the Council's recommendation, he shall publish a notice in the Federal Register as specified in the regulations at 50 CFR 663.23, affording a reasonable period for public comment which is consistent with the urgency (if any) of the need to implement the change. (These actions by the regional director are the same as those authorized by the FMP for the "Point of Concern" mechanism.)

Changes authorized to be made by the framework procedure include, but are not limited to, definitions of legal gear, mesh size specifications, codend specifications, marking requirements, and other gear specifications included in 50 CFR 663, 50 CFR 611.70, and the FMP.

Impacts

Under Option 2, it is expected that savings in administrative costs will occur by avoiding the amendment process. Savings are estimated to range between $30,000 and $50,000 depending on the number of GMT meetings and locations, associated expenses, salaries of the GMT and Council staff (seven man months), and Council meetings relating to the amendment process. Up to a year or more is required for amending the FMP. Under the framework procedure, it is expected that a change could be made as quickly as two months after the Council recommends making the change. It is anticipated that, on the average, one gear change per year will be affected by this amendment.

Changes implemented using the framework procedure could have biological impacts. Such biological impacts are likely to be favorable or minor since gear changes would be aimed at meeting the needs of the industry without producing significant adverse biological impacts. Any positive biological impacts are apt to occur faster under the proposed framework process because of quicker implementation than by amending the FMP.

Changes implemented using the framework procedure could result in some cost to the industry. An extreme example of a high cost would be to implement an increase in mesh size requirements without allowing the change to be phased-in. About 400 trawl vessels could be involved. If each vessel were required

to purchase new codends for an average of three trawl nets at $2,000 per codend, the cost to the industry would be $2,400,000. However, in order to minimize the cost to the industry, it is likely that such a change would be phased-in over a period of time that would allow codends to be replaced as old ones wear out due to normal wear and tear. In this case, there could be no incremental cost associated with the changes. The framework procedure requires that a time schedule be developed that minimizes cost to the industry while achieving the goals of the change.

It is not inconsistent to have a framework provision which allows relatively rapid implementation, and yet stipulate that a one or two year phase-in period could be used. The rate of implementing a particular change in gear regulations would depend upon the type of action being taken, cost to the industry, and urgency of the change, as considered in the Council's proposed schedule for implementation. A phase-in period could be applied only after the framework action was approved and announced. An FMP amendment would take at least one year longer to approve than would a framework action.

There are no impacts to the physical environment associated with either option.

Similarly, no impacts on enforcement are expected. Examination of gear for compliance with the regulations currently occurs.

Interaction With Other Amendment Issues

This issue interacts with Issue 3 (Marking Fixed Gear) of this amendment. If Option 2 of this amendment issue already had been implemented, i.e., establish a framework procedure for changes in gear regulations, there would have been no need to implement Issue 3. However, deletion of Issue 3 at this time would cause an unnecessary delay in requiring consistent coastwide marking of fixed gear.

Recommendation

The Council adopted Option 2.

FMP References

Section 12.3.2.1. Mesh Size, Pages 12-20 through 12-25
Section 12.3.2.2. Setnets, Page 12-25
Section 12.3.2.3. Commercial Hook-and-Line Fisheries, Page 12-26
Section 12.3.2.4. Recreational Fisheries, Page 12-26

Regulations

Gear Regulations

50 CFR 611.70, 50 CFR 663.2, 50 CFR 663.23, and 50 CFR 663.26.

ISSUE NUMBER 3 - MARKING REQUIREMENTS FOR SETNETS AND COMMERCIAL VERTICAL HOOK-AND-LINE GEAR

This issue examines the need to require marking of setnets, which are legal in certain areas south of 38°00'N latitude, and commercial vertical hook-and-line gear (also known as Portuguese longline gear) by extending the marking regulations implemented by the first amendment to the FMP. Current regulations on fixed gear require that traps set individually, and trap and longline groundlines at each terminal end, be marked at the surface with a pole and flag, light, radar reflector, and a buoy displaying clear identification of the owner. In the years since the first amendment was implemented, setnets and commercial vertical hook-and-line gear have become more prevalent, and the need for marking these gears the same as other fixed gears is recommended.

Background

Fixed and mobile gears often fish on the same grounds and compete for space. Many fixed gear fishermen broadcast the location of their gear on commonly monitored radio frequencies and cooperate with other fixed gear and mobile gear fishermen to minimize direct gear conflicts. Nonetheless, some gear conflicts occur.

Current gear marking requirements for traps and longlines were imposed to aid retrieval and to reduce entanglement of gear (other fixed gear or mobile gear) among users of the same grounds. However, setnets and commercial vertical hook-and-line gear, which also are fixed gear, were not prevalent when these regulations were developed and thus were not included when such marking requirements were imposed. As a result, fishermen have reported some serious gear conflicts involving setnets off California and commercial vertical hook-and-line gear off California and Oregon because these types of gear did not have good visual markings. A uniform marking system for fixed gear would be consistent with the FMP objective of minimizing gear conflicts among users. The states currently have no marking requirements for these gears other than to identify ownership. (Fishing for groundfish with setnets is prohibited in the fishery management area north of 38°00'N latitude unless specifically authorized under an EFP.)

Options

Option 1 - Status Quo

No federal marking requirements for setnets and commercial vertical hook-and-line gear.

Option 2 - Requirements for Setnets and Commercial Vertical Hook-and-Line Gear

Commercial vertical hook-and-line gear must be marked at the surface with a pole and flag, light, radar reflector, and a buoy displaying clear identification of the owner.

Setnets must be marked at the surface at each terminal end with a pole and flag, light, radar reflector, and a buoy displaying clear identification of the owner.

Impacts

Option 1 (status quo) would not provide any relief from gear conflicts reported by fishermen involving setnets or commercial vertical hook-and-line gear due to the lack of good visual markings. Without marking requirements for these gear, some fishermen will not mark their gear or will use inadequate methods that do not protect other users.

In considering the marking requirements for traps and longlines under the first amendment, some fixed gear fishermen with small vessels testified that requiring more than one terminal marker is unnecessarily restrictive because they do not have adequate deck space to handle the extra gear. They pointed out that fishermen are not restricted from adding buoys if they wish and if additional marking was a cost-effective way of avoiding lost gear it would have been more widely used.

The marking requirements currently in place for traps and longlines are considered to be good markings which have been proven effective in minimizing gear entanglements. Consistent with current regulations for fixed gear, Option 2 would require each setnet to be marked at both terminal ends on the surface (as for traps and longlines at §663.26[d][4] and [f][2]) and each piece of commercial vertical hook-and-line gear to be marked individually at the surface (as for traps at §663.26[d][3]). Thus Option 2 should provide adequate marking for fixed gear which will improve detection and avoidance by vessels transiting or fishing in the same area as well as to prevent loss of gear by fixed gear fishermen.

The costs of gear marking equipment are given in Table 2. Option 1 does not impose an additional economic burden on the fishing industry. Under Option 2, the initial expense per vessel of marking with entirely new equipment is estimated to be: (1) for setnets, $936 assuming an average of two setnets fished per vessel and (2) for commercial vertical hook-and-line gear, $1,170 to $1,404 assuming an average of five to six units of commercial vertical hook-and-line gear fished per vessel. However, the incremental costs are about half these amounts. Since a setnet already would be marked under Option 1 by at least a line, buoy, pole, and flag; the incremental cost of Option 2 would be $230 per setnet or $460 per vessel for the additional light and radar reflector, and $106 for vertical hook-and-line gear or $530 to $636 per vessel.

Approximately 200 setnet vessels south of 38°N latitude (Point Reyes, California) and less than 20 commercial vertical hook-and-line vessels coastwide operated during 1985. For the estimated 220 setnet and commercial vertical hook-and-line vessels, the approximate initial incremental cost to the fleet is estimated to be as high as $103,000 to $105,000 should Option 2 be implemented in 1987. This estimate is not an annual cost to the industry, but will vary depending on the average number of setnets or commercial vertical hook-and-line gear fished per vessel and the average useful life of each type of gear. These costs assume all vessel operators must purchase new equipment to comply with the marking regulations.

Table 2. Estimated costs in 1986 of marking fixed gear.

Material	Costs (in dollars)
Crab Marking Line of 5/16 Inches Diameter, 200 fms	50
Buoy	60
Pole	9
Flag	9
Light	31
Radar Reflector	75
Total For one Terminal Marker	234

Source: Marine supply store in California.

These options have minor biological and environmental importance. Lost setnets or commercial vertical hook-and-line gear may remain on the bottom and become a nuisance to fishermen who snag or catch them in trawls or while trolling. Lost setnets will continue to catch and kill fish for an unknown period of time. Most fixed gear fishermen locate gear with navigational aids (primarily LORAN C) and can retrieve lost gear readily.

Interaction With Other Amendment Issues

This issue interacts with Issue 2 of this amendment. If Option 2 of Issue 2 had been implemented, there would have been no need to implement Issue 3. However, deletion of Issue 3 at this time would cause an unnecessary delay in requiring consistent coastwide marking of fixed gear.

Recommendation

The Council adopted Option 2.

FMP References

Section 1.4.1. "Gear Restrictions," Final Fishery Management Plan and Supplemental Environmental Impact Statement for the Washington, Oregon, and California Groundfish Fishery:1-6.

"Issue 2 - Marking Requirements for Fixed Gear," First Amendment and Implementing Regulations to the Pacific Coast Groundfish Fishery Management Plan Incorporating the Environmental Assessment, the Regulatory Impact Review/Regulatory Flexibility Analysis, and Requirements of Other Applicable Law:2-1.

Regulations

50 CFR 663.26(d)(3), (d)(4), and (f)(2).

APPENDIX A

Environmental Assessment of the Second Amendment to the Pacific Coast Groundfish Fishery Management Plan

APPENDIX A TABLES
Environmental Assessment of the Second Amendment to the
Pacific Coast Groundfish Fishery Management Plan

APPENDIX A
ENVIRONMENTAL ASSESSMENT OF THE SECOND AMENDMENT TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Introduction

After four years of development, the Pacific Coast groundfish FMP was approved (except for one provision) by the Assistant Administrator for Fisheries, NOAA on January 4, 1982. A draft EIS was filed with the EPA on November 23, 1979. It was modified when the FMP was revised and submitted to the EPA as a draft supplemental EIS on December 24, 1980. The final supplemental EIS was submitted to the EPA with publication of the proposed implementing regulations. The notice for availability of the final supplemental EIS was published by the EPA on February 12, 1982 (47 FR 6483).

Amendment 1 to the FMP was approved by the Assistant Administrator for Fisheries, NOAA on January 18, 1982 and the implementing regulations became effective October 5, 1982. An EA was prepared which found that no significant impact on the biological or human environment would result from implementation of the changes adopted by Amendment 1.

The Council has prepared the second amendment to the FMP. Therefore, an EA of this amendment is developed according to 40 CFR 1501.3 and 40 CFR 1508.9 and NOAA Directive 02-10 in order to determine whether an EIS must be submitted as stated in Section 102(2)(C) of the NEPA. An EIS normally is required for any major action that will have a significant impact on the quality of the human environment. Otherwise an EA provides sufficient analysis if accompanied by a finding of no significant impact.

Three separate issues are included in the second amendment. For simplification, the Council included the analysis of the potential environmental impacts in the discussion of alternative options for each issue. The "Summary of Environmental Impacts" in this appendix consolidates the information from the more detailed discussions included with each issue. Thus, this appendix either contains or references the information required for an EA which was used as the basis for recommending a finding of no significant environmental impact (see Table A-1). The Council sought public comment on the amendment, EA, and finding of no significant impact.

Choice of Issues and Preferred Options

Issues potentially requiring modification of the FMP were identified at various Council meetings and at a public "scoping" session held on July 10, 1985. The Council chose to wait until public hearings were held in August before selecting preferred options on the issues at its September 1986 meeting. The discussion of environmental impacts in the amendment covers the range of possibilities provided for each issue, so the extreme options have been considered. In those cases in which the status quo (as set forth in the FMP) represents one extreme, analysis may be less rigorous because that action had already been considered under the supplemental EIS for the FMP.

Table A-1. Issues in the "Second Amendment to the Pacific Coast Groundfish FMP" (pages references requirements of an environmental assessment under NEPA).

Issue	Title	Need for Action	Alternative (Options)	Impacts		Preferred Option
				Biological	Socio-Economic	
1	Delete the Sablefish Optimum Yield (Quota) in the Montery Bay Subarea	3,4	4	5	5	2
2	Gear Regulation Flexibility	7,8	8,9	9	10	2
3	Marking Requirements for Setnets and Commercial Hook-and-Line Gear	11	11	12	12	2

Summary of Environmental Impacts

None of the alternatives proposed for any of the issues in this second amendment are expected to jeopardize the productive capability for a stock of fish, allow substantial damage to any ocean habitat, have any substantial adverse impact on public health or safety, adversely affect an endangered or threatened species or a marine mammal population, or are expected to result in cumulative effects that could have a substantial effect on the target resource species or any related stocks. The impacts of even the most severe options for these issues, considered separately or together would not have a significant impact on the quality of the human environment. The basis for these conclusions is summarized below.

Biological Impacts

Implementation of any option or set of options presented in this amendment would not have a significant biological impact, direct or indirect.

Increased Landings

Implementation of any option or set of options presented in this amendment would not result in increased landings and would not jeopardize the productive capability of any stock.

Lost Gear

The options presented in Issue 3 (marking requirements for setnets and commercial vertical hook-and-line gear) would have no quantifiable biological effect, direct or indirect, on any stock of fish. Setnets and commercial vertical hook-and-line gear have become more common, particularly off California, and it has become apparent that they should be marked the same way and for the same reasons as other fixed gears. The marking requirements currently in the federal regulations require a buoy on both ends of a groundline or on pots and were intended to minimize gear conflicts and loss by making fixed gear more visible. The biological implication was that lost or unretrievable gear might fish indefinitely. The expense of such losses to fishermen, not to mention the inconvenience and time lost from gear conflicts, provide strong incentives for fishermen to minimize these losses. Although the least restrictive option (Option 1 [status quo] - no federal marking requirement) would make fixed gear less visible than the most restrictive option (Option 2), the current lack of marking for these two gear types has not yet been correlated with notable impacts on any stock of fish. Consequently, biological ramifications of this issue are expected to be insignificant.

Gear Modification

Gear regulations currently may be changed as a means to reduce biological stress on a stock of fish. Issue 2 (providing a framework mechanism for modifying gear without an FMP amendment) considers a more timely means of changing gear requirements, but for reasons not necessarily relating to biological stress. This does not mean there will not be any biological ramifications from this issue but, if any, they are likely to be favorable or minor because they would be designed to meet the industry's needs without

adverse biological effects. As in any multispecies fishery, if catch composition changes (for example in response to changes in mesh size), some species will be fished more heavily than in the past, but the "Point of Concern" mechanism is in place to avoid undue stress on any stock. Some gear modifications (such as the marking provision in Issue 3) will not change the "catchability" of species, but will render the fishery more efficient, and the biological impact would be in minimizing ghost fishing by lost gear.

Monterey Bay OY for Sablefish

Sablefish in Monterey Bay are no longer believed to be a separate stock. Option 2 of Issue 1 (deleting the separate OY for sablefish in Monterey Bay) has no biological impacts and merely brings accounting procedures into conformance with the reality of the fishery.

Impacts on the Physical Environment

Issue 3 is the only issue in the amendment which affects the physical environment. Although some fixed gear may be lost if marking requirements are not imposed, widespread degradation of the physical environment will not result from the number of setnets and commercial vertical hook-and-line gear currently in use.

Insofar as the issues in Amendment 2 have no interaction with the physical environment other than with ocean waters, there is no effect, significant, adverse, or otherwise on flood plains or wetlands (see NOAA Directive 02-12) or trails and rivers listed or eligible for listing on the National Trails and Nationwide Inventory of Rivers (Presidential Directive, August 2, 1979).

Impacts on the Human Environment

All the options considered as alternatives to the status quo for the three issues either are to the economic benefit of the fishing industry or have minimal or no socio-economic impacts compared to the status quo. No option, alone or combined with other options, imposes a significant cost (as defined by Executive Order 12291) on industry when compared with the status quo. The benefits from retaining the status quo, however, may be more costly than the alternative options in some issues. The basis for these conclusions is summarized below. More complete analyses of these impacts are in the discussions of each issue and in the RIR/RFA (Appendix B).

Direct Costs

Since the status quo was rejected for Issue 2 (Framework Gear Provisions) and Issue 3 (Fixed Gear Marking), there will be some direct costs to fishermen which should, however, be compensated for by other benefits.

Issue 2 is difficult to analyze. Because it proposes framework flexibility in modifying gear, a variety of changes (and costs) are possible. However, inherent in the procedures for this framework procedure are provisions that would minimize costs to the industry while achieving the benefits of the change. The most expensive gear modification would be one in which trawl nets had to be replaced (at a cost of $2,400,000 to the fleet; see Issue 2), but these could be phased-in as old gear wears out and thus would have a small incremental cost, if any, to the fleet.

The requirement to mark setnets and commercial vertical hook-and-line gear (Issue 3) is expected to have an approximate initial incremental cost of about $500 per vessel. This expense is considered small relative to the potential benefits of avoiding gear conflicts and retrieving lost gear.

Enforcement

Effectiveness and cost of enforcement have slight implications in Issues 1, 2, and 3.

Option 2 of Issue 1 proposes deleting the separate OY for sablefish in Monterey Bay and reverting only to the coastwide OY. This action has potential savings in that separate enforcement monitoring to determine area of catch and to enforce closures would become unnecessary. In actuality, catches never approached OY in Monterey Bay and, because sablefish there were determined **not** to be a different stock, area of catch was not closely watched. Thus, adoption of Option 2 would forestall potential costs that could occur, but have not, under the status quo.

Issue 2 (providing framework flexibility for changing gear requirements) and Issue 3 (marking requirements for fixed gear) have enforcement implications only insofar as gear changes and markings must be monitored. This is done in the normal course of surveillance. Although an additional 220 vessels (1985 estimate) may fall under the new marking requirements (Issue 3), this does not necessitate a real increase in enforcement effort or monitoring above the status quo since this gear already is checked for compliance with state regulations.

Allocation

Gear modifications under Issue 2 (providing framework flexibility) could have allocative effects (as do most management measures) and these would be considered on a case by case basis in the course of taking action under this provision.

Safety

There may be safety implications with Issue 3 (marking fixed gear) but public comment to this effect was minimal. The setnet and commercial vertical hook-and-line vessels that operate off California tend to be small vessels and it is not clear if the buoys and line necessary for compliance would be a hindrance on deck.

Gear Conflicts

Option 2 of Issue 3 (marking fixed gear) is intended not only to aid in retrieval of fixed gear but also to make this gear more visible and less likely to be unintentionally intercepted by movable (trawl or troll) gear operating on the same grounds.

Administration

Whenever new procedures are adopted or old procedures refined, some incremental cost of administering the procedures may be incurred. From a publication

standpoint, if the status quo is changed for any issue in this second amendment, the cost of proposed and final rulemaking is about $500 per Federal Register notice, no matter how many issues are involved. Deletion of the Monterey Bay OY for sablefish (Option 2 of Issue 1) provides a potential cost savings since monitoring the area would not be necessary and a notice of closure for that area ($500 annually to prepare) would not be needed.

The framework gear provision (Issue 2) is designed as a cost savings measure; inseason adjustments are much more efficient to implement than an FMP amendment and thus represent a cost savings to the Council and federal government.

Interaction Among Issues

This amendment may be approved in whole, in part, or not at all. Each of the issues described in this amendment is independent of the others and can be considered separately on its own merits. Thus the Assistant Administrator of NMFS could disapprove that portion of the amendment dealing with any issue without jeopardizing the rationale, intensity, or context behind the impacts of any other issue considered in this amendment.

It should be noted that if framework changes to gear (Issue 2) had been in place, Issue 3 (marking requirements for fixed gear) could have been implemented in a more timely and cost effective manner than by this amendment.

Agencies and Persons Consulted

Representatives of the following agencies were consulted in the preparation of this EA.

California Department of Fish and Game
Oregon Department of Fish and Wildlife
Washington Department of Fisheries
Pacific Fishery Management Council
National Marine Fisheries Service
U.S. Coast Guard

Finding No Significant Environmental Impact

For the reasons discussed or referenced above, it is hereby determined that neither approval or disapproval of any option presented would significantly affect the quality of the human environment in a way that has not already been contemplated in the supplemental EIS for the FMP. Accordingly, preparation of a supplementary EIS on these issues is not required by Section 102(2)(C) of the NEPA or its implementing regulations.

_____ _____

Assistant Administrator for Fisheries, NOAA

Date

APPENDIX B

Regulatory Impact Review/Regulatory Flexibility Analysis For the Second Amendment to the Pacific Coast Groundfish Fishery Management Plan

APPENDIX B
REGULATORY IMPACT REVIEW/REGULATORY FLEXIBILITY ANALYSIS FOR THE SECOND AMENDMENT TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN

Introduction

In compliance with Executive Order 12291, DOC and NOAA require the preparation of a RIR and RFA for all regulatory actions which either implement a new FMP, or significantly amend an existing FMP, or may be significant in that they effect important DOC/NOAA policy concerns and are the object of public interest.

The RIR/RFA is part of the process in developing and reviewing FMPs and is prepared by the Regional Fishery Management Council with the assistance of NMFS, as necessary. The RIR provides a comprehensive review of the level and incidence of impact associated with the proposed or final regulatory actions. The purpose of the analysis is to ensure that the regulatory agency or Council systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost effective way. To ensure full compliance with the regulatory requirements (1) the RIR/RFA has been prepared for the Pacific coast groundfish FMP to evaluate the costs and benefits of alternative management actions consistent with Executive Order 12291; (2) an evaluation of the positive or negative economic impacts on small business has been made consistent with P.L. 96-354; and (3) any paperwork and reporting burdens have been identified to ensure that regulations are cost effective, consistent with P.L. 96-511.

Issues in the FMP Amendment

The problems giving rise to the three issues are described below.

Issue 1 - Delete the Sablefish OY (Quota) in the Monterey Bay Subarea

The FMP established regulations for sablefish which include a coastwide OY (quota) and an OY for the Monterey Bay subarea. The coastwide OY includes the Monterey Bay subarea. At the time of FMP adoption (1982), it was believed that a separate stock of sablefish existed in the Monterey Bay subarea. However, additional evidence from tagging studies completed since 1982 has led to a reassessment of this premise. This reassessment indicated that there is substantial movement of sablefish from other areas along the coast into the Monterey Bay subarea. Consequently, it has been concluded that there is no scientific basis, at this time, for a separate quota on the Monterey Bay subarea.

Elimination of the Monterey Bay subarea OY would not affect fishing practices or catch in the Monterey Bay subarea unless conditions change substantially from what they have been since the FMP has been in place. The largest recorded annual landings of sablefish from the Monterey Bay subarea since 1982 have been 975 mt, far below the OY of 2,500 mt. There is no reason to believe that landings in this area will increase sufficiently in the future to cause the 2,500 mt quota to constrain the fishery.

This amendment issue responds to the need for clarity and simplicity in the fishing regulations.

Issue 2 - Gear Regulations Flexibility

Experience in managing the groundfish fisheries under the FMP has shown that, due to changing technology, changing markets, and improving biological assessments, gear restrictions for groundfish need to be adjusted from time to time. The FMP provides two avenues for making substantive changes in gear restrictions. First, there is the possibility of FMP amendment, a process which is completely flexible, but which is costly and slow. Second, under the "Point of Concern" mechanism (50 CFR 663.22[a]) a wide range of changes in gear restrictions may be accomplished in a much shorter time and with less expense than would be required for FMP amendment. However, action under the "Point of Concern" mechanism requires a determination of biological stress be made for at least one of the fish stocks being managed and the actions taken be for the purpose of relieving that stress.

The problem which gives rise to this amendment is the necessity of using the FMP amendment process in order to change the gear restrictions for reasons other than to prevent biological stress. Sound reasons for changing gear restrictions which are not related to biological stress of a fish stock have been encountered in managing groundfish under the FMP. For example, it was necessary to amend the FMP to require marking of some fixed gear in order to prevent conflict and to ease the retrieval of lost gear. Other reasons for changing gear requirements unrelated to biological stress include the reduction of regulatory burden on fishermen, increasing the yield per recruit, increasing the value of the catch through gear selectivity, and reducing administrative and enforcement costs.

Issue 3 - Marking Requirements for Setnets and Commercial Vertical Hook-and-Line Gear

The FMP and the first amendment to the FMP recognize that fixed gear need to be well marked in order to avoid gear conflicts and to facilitate retrieval of lost gear. Gear marking requirements for groundfish pots and longlines were established in the FMP and modified in the first amendment to the FMP. However, in the three years since the first amendment was initiated, groundfish setnets and commercial vertical hook-and-line gear (Portuguese longline) have become a significant factor in the fishery. Accordingly, this amendment would extend to setnet and vertical hook-and-line gear marking requirements similar to those already in place for pots and longlines.

Methods

An analysis for the economic impacts of the alternative options is considered for each issue in the "Comparative Analysis of Issues" section. The impacts will be evaluated with respect to changes in the harvesting, processing, and marketing sectors by departing from the status quo situation. That is, all benefits and costs are treated as increments or decrements relative to the baseline of maintaining the status quo. The analysis presented here relies on the results of data analysis presented in the amendment. For a full discussion of the source of estimated impacts, refer to the pages in the amendment indicated in the text below.

Under each issue, the benefits of each option are described and quantified, as far as possible, in the "Comparison of Gross Benefits" section. The costs are similarly quantified in the "Comparison of Costs" section. These are followed by a section entitled "Comparison of Net Benefits," which compares the net benefits (benefits less costs) of the options. In most instances there is limited quantitative information with which to derive or estimate benefits and costs. Some costs have been reasonably estimated, such as gear and supply purchases. However, estimates of changes in catch, effort, revenue, prices, sales, and market conditions for harvesters and processors are difficult to make given the dynamic nature of the groundfish fishery. Thus, much of the analysis will be a qualitative discussion for benefits and costs of proposed actions compared to current regulations.

To satisfy the requirements of Executive Order 12291, the Regulatory Flexibility Act (P.L. 96-354), and the Paperwork Reduction Act (P.L. 96-511); the comparative impacts of options will be judged in terms of changes in the following variables:

1. competition, employment, investment, productivity, exports, imports, and cost of goods and services

2. level and incidence of compliance costs and reporting requirements incurred by small business, if any

3. additional information collecting costs incurred by the federal government to implement alternatives

4. monitoring and enforcement costs incurred by government agencies to ensure compliance with regulations

In the section entitled "Impacts of Management Regime on Specific Areas of Concern," changes in the variables listed in Number 1 above will be used to determine whether proposed options are major or nonmajor rules, as defined by Executive Order 12291. A proposed regulation is a "major" action if the annual effect on the national economy is $100 million or more and/or there are significant adverse effects on the variables listed in Number 1. For the purpose of evaluating cumulative regulatory impacts on the above variables, two major alternatives are identified: (1) no action or maintaining the status quo option under each issue and (2) implementation of the most extreme option under each issue.

The section entitled "Regulatory Impact on Small Business" presents an analysis for the impacts of proposed options on small business entities, as required by the Regulatory Flexibility Act. An evaluation of the additional paperwork burdens imposed on industry or the government is found in "Additional Recordkeeping, Reporting, Paperwork, and Rulemaking Costs Relevant to the Paperwork Reduction Act," as required by the Paperwork Reduction Act. Changes in monitoring or enforcement costs are identified in "Monitoring and Enforcement Costs to Federal Government."

Comparative Analysis of Issues

Issue 1 - Delete the Sablefish OY (Quota) in the Monterey Bay Subarea

Background information for this issue is presented in the amendment on pages 3 through 4.

Option 1

Status Quo - an OY in the Monterey Bay subarea which is included in an overall coastwide OY for sablefish is specified.

Option 2

Delete the separate OY for sablefish in the Monterey Bay subarea.

Comparison of Benefits

There is no significant difference between the benefits generated under the two options. Option 2 could allow a larger catch of sablefish in the remote chance that the fishery in the Monterey Bay subarea were to land 2,500 mt before the end of the year. However, the probability of this happening on a regular basis is so low that this potential benefit is insignificant.

Comparison of Costs

The existence of a separate OY for the Monterey Bay subarea when it is not justified by current scientific knowledge is misleading to anyone not familiar with the management history of this fishery. In addition, there is a small chance that the landings in the Monterey Bay subarea could at some future date approach the OY of 2,500 mt. If this were to happen, then administrative costs would be incurred for increased monitoring of the landings, and, if the OY is reached, for closing the fishery in that subarea (page 5).

Comparison of Net Benefits

Option 2 would reduce confusion and potentially save a small amount of administrative costs. Since Option 2 also has a small but positive probability of allowing higher fleet revenue, the net benefit of Option 2 is small but positive.

Issue 2 - Gear Regulations Flexibility

The background information on this issue is presented on pages 7 and 8 of the amendment.

Option 1

Status quo - except under the "Point of Concern" mechanism, only minor changes in gear regulations can be made without FMP amendment.

Option 2

Changes in gear regulations may be made through the framework process for other than conservative reasons (see pages 8 and 9).

Comparison of Benefits

In analyzing the effects of these options, it is assumed that the management measures invoked will be the same for either option, but different administrative requirements will affect the timeliness and administrative costs of the measures. Delays in taking appropriate action could reduce the revenue to the fishing industry. The minimum time required for an amendment to become effective from the point at which the Council recommends the amendment is seven months. The minimum delay for a substantial change recommended under the framework process of Option 2 could be no more than two months unless there is reason to delay implementation to reduce cost to the industry. Thus, Option 2 could reduce the time it takes to implement gear changes by at least five months. Since the FMP was adopted in 1982, three gear changes have been made through the amendment process and a fourth is proposed in the second amendment under review. Presumably, the benefits from these changes would have been greater had they been enacted sooner. However, inasmuch as the benefits in each case were unquantifiable, it is not possible to quantify the cost of any delays.

Comparison of Costs

The administrative cost of implementing an amendment is estimated to be $30,000 to $50,000 more than it would cost to implement a gear change under Option 2. However, the two amendments to the groundfish FMP have involved a number of issues most of which have not been related to changes in gear regulations. Consequently, it is not known whether or not Option 2 would reduce the frequency and hence the cost of FMP amendments.

Comparison of Net Benefits

The greater benefit from Option 2 due to the increased timeliness of management changes, combined with administrative costs which are at least as low as for Option 1 indicate that the net economic benefits of Option 2 exceed those of Option 1.

Issue 3 - Marking Requirements for Setnets and Commercial Vertical Hook-and-Line Gear

The background information on this issue is presented in the amendment on page 11.

Option 1

Status Quo - no federal marking requirements for setnets and commercial vertical hook-and-line gear.

Option 2

Commercial vertical hook-and-line gear must be marked at the surface with a pole and flag, light, radar reflector, and a buoy displaying clear identification of the owner.

Setnets must be marked at the surface at each terminal end with a pole and flag, light, radar reflector, and a buoy displaying clear identification of the owner.

Comparison of Benefits

The gross benefits under each option will be determined by the value of fish landed by the entire groundfish fleet. Since neither option is likely to affect the amount or value of fish caught by the groundfish fleet, the benefits are expected to be approximately the same under either option.

Comparison of Costs

The incremental cost of adopting Option 2 is determined by two contrary factors. On the one hand, compliance costs for the fleet will be higher since additional gear marking equipment is called for. On the other hand, costs due to gear loss, damage, and lost time should decrease to the extent that additional gear markings reduce gear interactions.

The costs of compliance to the setnet and vertical hook-and-line vessels may be divided into initial costs and maintenance costs. The initial cost of marking one end of a setnet according to the requirements of Option 2 has been estimated in the amendment to be $234 (Table 2). Since the setnet would be marked under Option 1 by at least a line, buoy, pole, and flag, the incremental cost for Option 2 would be $106 (for the additional light and radar reflector). Assuming that current practice is for setnet fishermen to have at least a line and buoy at each end of the setnet, in addition to the flag and pole at one end, the initial incremental cost of Option 2 for a setnet would be $230. The incremental cost of Option 2 for vertical hook-and-line gear would be $106.

These costs would be born by each of the approximately 200 setnet vessels and 20 vertical hook-and-line vessels now in the groundfish fleet (page 12). Assuming that each setnet vessel fishes two nets while each vertical hook-and-line vessels fishes five to six lines, the initial incremental compliance cost of Option 2 for the entire fleet would be approximately $103,000 to $105,000.

Incremental annual maintenance costs for a vessel under Option 2 would equal the initial cost divided by the average lifetime of the marking gear in the absence of a loss due to gear interactions. Since this average lifetime is unknown, the annual maintenance cost per vessel in undetermined.

The cost of gear replacement and lost fishing time to the various fleet components involved in gear interactions affected by Option 2 cannot be determined due to lack of data on the frequency of such interactions and the individual cost of each incident. It is assumed that this cost would be lower under Option 2 than under Option 1.

Any future change in the size of the setnet or vertical hook-and-line fleet would change these costs proportionally. No prediction can be made at this time for any increase or decrease in fleet size.

Since the cost saving under Option 2 due to reduced gear conflict cannot be quantified, it cannot be determined with certainty whether total costs under Option 2 will be higher or lower than under Option 1.

Comparison of Net Benefits

Benefits are predicted to be the same under each option while the relative costs are undetermined. Therefore, the incremental net benefits of choosing Option 2 over Option 1 are undetermined.

Impacts of Management Regime on Specific Areas of Concern

This section is intended to show the potential impact of proposed management changes on specific areas of concern, as called for in Executive Order 12291. Since the three issues in the amendment have only one option each, other than the status quo, the discussion of these issues will focus on the alternative to the status quo.

Competition

None of the options considered under any of the issues will change the competitive structure of the west coast groundfish fishery or restrict entry into the fishery.

Employment

None of the options in the three amendment issues under consideration will affect employment levels in fishing or processing.

Investment

None of the issues will have any effect on investment, except Issue 3, where Option 2 could cause setnet and vertical hook-and-line fishermen to invest in additional marking gear estimated at an initial cost of $103,000 to $105,000. The annual investment required to comply with these marking requirements is unknown.

Productivity

Option 2 of Issue 3 may have a slight positive effect on productivity. No other options will have any impact on productivity.

Costs of Goods and Services

No options considered in the amendment would have any significant tendency to increase the cost of goods and services.

Exports

None of the options considered in the amendment will result in an increase of fish from the U.S.

Imports

None of the options considered in the amendment will cause an increase of fish imports into the U.S.

Regulatory Impacts on Small Business

Issues 1 and 2 will have no impact on small business or small government entities. The elimination of the OY for sablefish in the Monterey Bay subarea (Issue 1) is merely removing a regulation which has never been invoked. Establishing a framework mechanism for gear regulation changes (Issue 2) reduces administrative costs to the federal government, but does not alter the management regulations to which fishery vessels will be subject.

Issue 3 involves significant compliance costs for the small vessels fishing setnets or vertical hook-and-line for groundfish. The estimated initial cost per vessel for approximately 200 setnets is $460. The estimated cost per vessel for approximately 20 vertical hook-and-line is $530 to $636. Some of these costs will be recovered in decreased gear loss due to the gear being more visible.

Additional Recordkeeping, Reporting, Paperwork, and Rulemaking Costs Relevant to the Paperwork Reduction Act

A choice of Option 2 for Issue 1 would slightly reduce recordkeeping requirements for government agencies since it would no longer be necessary to monitor the sablefish catch in the Monterey Bay subarea. However, there is no change in recordkeeping requirements for the public resulting from any issue in this amendment.

Monitoring and Enforcement Costs to Federal Government

None of the management options considered in the amendment involve extra enforcement or monitoring costs for the federal government. Some small savings in monitoring costs will be realized if the separate OY for sablefish in the Monterey Bay subarea is eliminated by selecting Option 2 of Issue 1.

APPENDIX C

Consistency With Federal and State Coastal Zone Management Programs

APPENDIX C TABLES

Consistency With Federal and State Coastal Zone Management Programs

APPENDIX C
CONSISTENCY WITH FEDERAL AND STATE COASTAL ZONE MANAGEMENT PROGRAMS

Coastal Zone Management Act

The CZMA of 1972 specifies at Section 307(c)(1) that

> Each federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

The MFCMA specifies at Section 303(b) that

> Any FMP which is prepared by any council or by the Secretary, with respect to any fishery, may . . . (5) incorporate (consistent with the national standards, the other provisions of MFCMA, and any other applicable law) the relevant fishery conservation and management measures of the coastal states nearest to the fishery.

Both the CZMA and the MFCMA establish policies that affect the conservation and management of fishery resources.

NOAA administers both the MFCMA and the CZMA. Moreover, it is NOAA's policy that the two statutes are fundamentally compatible and should be administered in a manner to give maximum effect to both laws. It is also NOAA's policy that most FMPs (and amendments of FMPs) constitute a federal activity that "directly affects" the coastal zone of a state with an approved coastal zone management program. NOAA recognizes that fisheries constitute one of the key resources of the coastal zone and that the preparation and implementation of FMPs to regulate fisheries in the FCZ could have a direct effect on the state's coastal zone because of the division in the fishery resources between the FCZ and state territorial and internal waters.

The CZMA and the MFCMA establish time frames for consistency review and approval of FMPs and amendments that are approximately equal. However, these time frames may, on occasion, cause procedural problems in coordinating consistency review and approval of FMPs or amendments.

NOAA regulations require that consistency determinations be provided to states with approved programs "at least 90 days before final approval of the federal activity unless both the federal agency and the state agency agree to an alternative notification schedule" (15 CFR 930.54[b]). Similarly, NOAA regulations encourage federal agencies to provide consistency determinations "at the earliest practical time" in the planning of an activity, "before the federal agency reaches a significant point of decision making in its review process" (930.54[b]). A state must indicate its agreement or disagreement with the consistency determination within 45 days. If the state fails to respond within 45 days, the state's agreement may be presumed. However, the state may request one 15-day extension before the expiration of the 45-day period, and the federal agency must comply. Longer extensions may be granted by the federal agency (15 CFR 930.41).

The MFCMA requires the Secretary of Commerce review an FMP or amendment prepared by a council and notify such council of his approval, disapproval, or partial approval within 95 days after he receives the FMP or amendment (P.L. 97-453).

The sections that follow summarize those portions of the Washington, Oregon, and California coastal zone management programs that may be relevant to the FMP and subsequent amendments, and the last section determines consistency between the second amendment to the FMP and these state programs.

Washington State Coastal Zone Management Program

The DOE is lead state agency for implementation of the WCZMP. The coastal zone boundary embodies a two-tier concept. The first or primary tier, bounded by the "resource boundary," encompasses all of the state's marine waters and their associated wetlands, including, at a minimum, all upland area 200 feet landward from the ordinary high water mark. The second tier, bounded by the "planning and administrative boundary," is composed of the area within the 15 coastal counties which front on saltwater. The second tier is intended to be the maximum extent of the coastal zone and, as such, is the context within which coastal policy planning is accomplished through the WCZMP.

Management of the coastal zone is subject to the Shoreline Management Act and implementing regulations, the federal and state clean air act requirements, and the energy facility siting law. Together, these authorities establish priorities for permissibility of uses and provide guidance as to the conduct of uses of Washington's coastal zone. The emphasis of the program includes not only Washington's coastal waters, but the shoreline jurisdiction throughout the 15 coastal counties.

The WCZMP provides a consistency review mechanism for federal activities affecting the coastal zone based on specific policies and standards. For federal activities requiring no permits, but having coastwide implications (such as FMPs), the policies and standards addressed in the Shoreline Management Act of 1971 (RCW 90.58) and the Final Guidelines (WAC 173-16) provide the basis for determining consistency.

Shoreline Management Act

The management goals in the Shoreline Management Act emphasize a balance between conservation and use of the shorelines. More specific priorities were given to "shorelines of state wide significance" encompassing an area including Washington ocean waters and shoreline from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets.

The second amendment to the FMP is consistent with the following directives contained in the WCZMP concerning shoreline management.

(a) Recognize and protect the state wide interest over local interest.

(b) Preserve the natural character of the shoreline.

This proposed FMP amendment should have no direct impact on the natural character of the Washington shoreline. The groundfish fishing regulations that are implemented as a result of this action will be effective outside of state territorial waters in the FCZ.

(c) Result in long-term over short-term benefit.

The FMP requires the annual consideration of long-term resource needs and short-term social and economic benefits. The determination of OY balances these competing demands. Under the FMP, management measures may be imposed to alleviate biological stress on any stock of fish to assure that future productivity is not threatened. Ocean commercial fisheries off Washington have been curtailed in recent years in order to alleviate biological stress on certain stocks of groundfish. It is likely that commercial groundfish fisheries will continue to be restricted whether or not this amendment is approved in part or in its entirety. The only issues in this amendment directly affecting the harvest of groundfish seek to increase landings to levels that would achieve the MSY over time. Thus, no option presented in this amendment would jeopardize the productivity of any stock of fish or would result in significant short-term economic gains at the expense of long-term benefits.

(d) Protect the resources and ecology of the shoreline.

The purpose of the FMP and subsequent amendments is to conserve and protect the groundfish resource for current and future use. The FMP amendment does not compromise this goal.

(e) Increase public access to publicly-owned areas of the shoreline.

The amendment to the FMP will not have any direct or indirect affect on public access to publicly-owned areas along the coastal zone.

(f) Increase recreational opportunities for the public in the shoreline.

The FMP amendment will not effect recreational fishing opportunities for the public in the shoreline.

DOE Final Guidelines

The concept of preferred shoreline uses has been incorporated in DOE's final guidelines, with water-dependent uses clearly a priority over water-oriented or nonwater-oriented uses. The guidelines address uses compatible with (1) the natural environment, (2) the conservancy environment, (3) the rural environment, and (4) the urban environment. Of the 21 individual development policies in the final guidelines, three have relevance or potential relevance to the federal activity proposed in this amendment to the FMP.

(a) Commercial Development - Shoreline-dependent commercial development and developments which will provide shoreline enjoyment for a large number of people shall be preferred. New commercial activities shall locate in urbanized areas.

(b) Ports and Water-related Industry - Industry which requires frontage on navigable waters should be given priority over other industrial uses. Prior to allocating shorelines for port uses, regional and statewide needs for such uses should be considered.

Although this amendment does not specifically address development of water-related coastal industry, the protection and enhancement of ocean resources may provide a incentive for shoreside commercial development. Numerous shoreside fish plants process groundfish that are caught in the FCZ. Some of the processors are dependent on the groundfish fishery and will be affected by regulatory decisions made under the FMP and subsequent amendments. Consideration of the economic viability of shoreside commercial developments that are dependent on groundfish fisheries is an important economic factor in the annual determinations of OY by the Council.

(c) Recreation - Priority will be given to developments which provide recreational uses and other improvements facilitating public access to shorelines. Water-oriented recreation is a preferred use along the shorelines, but it should be located and conducted in a way which is compatible with the environment.

The amendment does not specifically address shoreside recreational development, but again the conservation, protection, and enhancement of ocean resources could provide an incentive for such developments.

Oregon State Coastal Zone Management Program

The Oregon program calls for consistency review to activities directly affecting the coastal zone, including air, water, scenic, living, economic, cultural, and/or mineral resources of the coastal zone.

The basis for the Oregon program is the 1973 Oregon Land Use Act, ORS 197. Oregon's program relies on the combined authority of state and local governments to regulate uses and activities in the coastal zone. The principal components of Oregon's program are: (1) 19 statewide planning goals and supporting guidelines adopted by LCDC, the state's coastal zone agency; (2) coordinated comprehensive local plans prepared by local governments and approved by the LCDC; and (3) selected state statutes implemented by various state agencies. Local and state planning decisions must comply with the Statewide Planning Goals, which serve as the program's overriding standards until local comprehensive plans are developed and acknowledged by LCDC. Once acknowledged, the comprehensive plans supersede the goals as standards for state and federal planning and activities in the coastal zone. Coastal zone boundaries are generally defined to extend to the state's seaward limit (three nautical miles offshore) and inland to the crest of the coastal mountain range.

Table C-1 lists the statewide planning goals and state regulations that have been examined for this analysis and categorized them according to their particular relevance to the recommendations in the amendment to the FMP.

Table C-1. Oregon coastal zone management planning goals and state regulations.

Category 1. Applicable Issues and Statutes	
Goal No. 1	Citizen Involvement in Planning
Goal No. 5	Preservation of Open Space . . . and Natural Resources
Goal No. 8	Recreational Needs
Goal No. 16	Estuarine Resources
Goal No. 19	Ocean Resources
ORS 496.012	Wildlife Policy
ORS 506.109	Foodfish Management
ORS 506.201-506.211	Oregon Fish and Wildlife Management Planning
Category 2. Potentially Applicable Goals and Statutes	
Goal No. 2	Land-use Planning
Goal No. 9	Economy of the State
Goal No. 17	Coastal Shorelands
ORS 184.033	Economic Development
ORS 777.835	Ports Planning
Category 3. Goals Relatively Inapplicable to the Proposed Action	
Goal No. 3	Agricultural Lands
Goal No. 4	Forest Lands
Goal No. 6	Air, Water, and Land Resources Quality
Goal No. 7	Areas Subject to Natural Disasters
Goal No. 10	Housing
Goal No. 11	Public Facilities and Services
Goal No. 12	Transportation
Goal No. 13	Energy Conservation
Goal No. 14	Urbanization
Goal No. 18	Beaches and Dunes

(a) The amendment is consistent with Goal 19, Ocean Resources, the most pertinent aspect of the Oregon State Coastal Zone Management Program relating to groundfish management. The overall statement of Goal 19 is:

> to conserve the long-term value, benefits and natural resources of the nearshore ocean and continental shelf. All local, state, and federal plans, projects, and activities which affect the territorial sea shall be developed, managed, and conducted to maintain, and where appropriate, enhance and restore, long-term benefits derived from the nearshore oceanic resources of Oregon. Since renewable ocean resources and uses, such as food production, water purity, navigation, recreation, and aesthetic enjoyment will provide greater long-term benefits than will nonrenewable resources, such plans and activities shall give clear priority to the proper management and protection of renewable resources.

Guidelines for Goal 19 reflect concerns for awareness of impacts upon fishing resources, biological habitat, navigation and ports, aesthetic uses, recreation, and other issues. The management objectives that are expressed in the FMP and this amendment are consistent with the objective of Goal 19, the protection and conservation of ocean resources. Goal 19 emphasizes the long-term benefits that would be derived from the conservation and restoration of the renewable nearshore oceanic resources. The FMP emphasizes the need to establish management measures that will provide for the conservation and protection of groundfish stocks and will help rebuild some stocks that have been biologically stressed. None of the issues in the amendment to the FMP jeopardize the protection and conservation of oceanic resources.

(b) Goal No. 5 also addresses the issue of conservation of natural resources. The guidelines call for fish and wildlife areas and habitats to be protected and managed in accordance with the Commission's management plans. The FMP was found consistent with the management objectives for groundfish stocks off Oregon that were developed by ODFW and adopted by the Commission. No action suggested by the FMP amendment would compromise this consistency.

(c) Goal No. 16 addresses the protection of estuarine resources. This goal emphasizes the need for protection, maintenance, development, and appropriate restoration of long-term environmental, economic, and social values; diversity, and benefits of Oregon's estuaries. Comprehensive plans and activities affecting estuaries must protect the estuarine ecosystem including its biological productivity, habitat, diversity, unique features, and water quality. However, Goal 16 underscores the need to classify Oregon estuaries and to specify "the most intensive level of development or alteration which

may be allowed to occur within each estuary." Neither the FMP nor its amendment has a direct affect on development or alteration of the estuarine environment.

(d) Goal No. 8, Recreational Needs, refers to existing and future demand by citizens and visitors for recreational facilities and opportunities. Planning guidelines recommend that inventories of recreational opportunities be based on adequate research and analysis of the resource, and where multiple uses of the resource exist, provision be made for recreational users. The FMP amendment in no way impedes the opportunity for Oregon recreational fishermen to harvest groundfish.

(e) Goal No. 1, Citizen Involvement, calls for the coordination of state, regional, and federal planning with the affected governing bodies and citizenry. Guidelines address communication methods, provision of technical information, and feedback mechanisms to assure the opportunity for citizen involvement in planning processes. The FMP process provides for close collaboration and coordination between state and federal management entities and assures citizen involvement in decision making through the forum of the Council and through a series of public hearings that are convened before the Council adopts any fishery management measures.

(f) Lastly, insofar as FMPs and FMP amendments have the potential to indirectly affect the coastal zone by stimulating private development of new markets or development of fish handling and processing facilities, or otherwise influence land-use planning, Goals 2, 9, and 17 may also apply.

California State Coastal Zone Management Plan and San Francisco Bay Plan

California State Coastal Zone Management Plan

The California State Coastal Zone Management Plan is based upon the California Coastal Act of 1976, Division 20, California Public Resources Code, Sections 30000, et seq.; the California Urban and Coastal Park Bond Act of 1976, Division 5, CPRC 5096.777 et seq.; and the California Coastal Commission Regulations, California Administrative Code, Title 14.

The California Coastal Act establishes a structure for state approval of local coastal programs (Section 30050). The California Coastal Commission is the state's coastal zone agency (Section 30300). The coastal zone boundaries are generally the seaward limit of state jurisdiction, and inland to 1,000 yards from the mean high tide line.

The general provisions of the California plan that address issues significant to this analysis concern the protection of the ocean's resources, including marine fish and the natural environment. The plan also calls for the balanced utilization of coastal zone resources, taking into account the social and economic needs of the people of the state. Specific coastal zone policies developed to achieve these general goals and which are applicable or potentially applicable to the regulatory measures proposed in the amendment to the FMP have been identified as follows.

(a) Section 30210 - ". . . recreational opportunities shall be provided for all the people consistent with the need to protect natural resource areas from overuse."

This goal is consistent with the FMP which seeks to provide recreational fishing opportunities consistent with the needs of other user groups and the need to protect the resource. Recreational fishing opportunities of California citizens are not expected to be inhibited in any way by this FMP amendment.

(b) Section 30231 - "The biological productivity and quality of coastal waters, streams, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained, and, where feasible, restored . . ."

Any action considered in the amendment does not affect the quality of coastal waters. However, it does provide for the conservation and optimum use of groundfish stocks, which are an integral part for the ecology of the coastal waters.

(c) Section 30230 - "Uses of the marine environment shall be carried out in a manner . . . that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational scientific, and educational purposes."

The amendment to the FMP does not jeopardize the reproductive capability of any resource, has no significant environmental impacts, and promotes equitable utilization among user groups with the intent of maintaining the groundfish harvest at levels which provide the long-term MSY.

(d) Section 30234 - "Facilities serving the commercial fishing and recreational boating industries shall be protected, and where feasible, upgraded."

This amendment does not specifically address the development of shoreside facilities that serve the commercial and recreational fishing industries.

(e) Section 30260 - "Coastal-dependent industrial facilities (such as fishing support) shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with the California Coastal Act."

(f) Section 30708 - "All port-related developments shall be located . . . so as to . . . give highest priority to the use of existing and space within harbors for port purposes including . . . necessary (commercial fishing) support and access facilities."

The amendment does not address the location of coastal-dependent industry or ports.

(g) Section 30411 - "The CDFG and the Fish and Game Commission are the state agencies responsible for the establishment and control of wildlife and fishery management programs."

The director of the CDFG is a voting member of the Council. A representative from the CDFG participates on the Council's GMT and helped develop the FMP and this amendment. The MFCMA mandated that all interested individuals, including state fishery management personnel, would have the opportunity to participate in the preparation of FMPs and amendments. This action is consistent with the provisions of Section 30411 because the CDFG has been involved in the planning process for those parts of the amendment that pertain to the management of California and coastwide fisheries.

San Francisco Bay Plan

The California State Coastal Zone Management Plan does not include San Francisco Bay. The San Francisco Bay Conservation and Development Commission has jurisdiction over the San Francisco Bay itself, as well as any river, stream, tributary, creek, flood control, or drainage channel that flows into San Francisco Bay.

The San Francisco Bay Plan was approved by the California legislature in 1969. Part II of the plan describes the California Fish and Game Commission's objectives as follows.

1. Protect the bay as a great natural resource for the benefit of present and future generations.

2. Develop the bay and its shoreline to their highest potential with a minimum of bay filling.

Part III of the San Francisco Bay Plan describes the findings and policies of the California Fish and Game Commission including fish and wildlife policies for the San Francisco Bay. The adopted policies state:

1. the benefits of fish and wildlife in the bay should be insured for present and future generations of Californians. Therefore, to the greatest extent feasible, the remaining marshes and mudflats around the bay, the remaining water volume and surface area of the bay, and adequate fresh water inflow into the bay should be maintained.

2. specific habitats that are needed to prevent the extinction of any species, or to maintain or increase any species that would provide substantial public benefits, should be protected, whether in the bay or on the shoreline behind dikes . . . .

Part IV of the bay plan presents the findings and policies concerning the development of the bay and the adjacent shoreline. Emphasis is given to the consideration of construction projects on filled lands and the controls over-filling and dredging in San Francisco Bay.

The amendment to the FMP does not address water flows, inshore habitat protection, or shoreline development.

Consistency Determination

The EA (Appendix A) and the RIR/RFA (Appendix B) describe issues considered in the second amendment to the FMP, evaluate the likely impacts of various options that could be taken, compare the expected impacts of the amendment from environmental, social, and economic perspectives, and assess the impacts on small businesses. Any option analyzed in this amendment has been determined to have no significant impact under the NEPA, Executive Order 12991, and Regulatory Flexibility Act.

Based on the above discussions and supported by these determinations, the Council finds that any action likely to result from the second amendment to the FMP is consistent, to the maximum extent practicable, with the approved Washington, Oregon, California, and San Francisco Bay coastal zone management plans.

APPENDIX D

Other Applicable Law

APPENDIX D
OTHER APPLICABLE LAW

Endangered Species Act of 1973

The purposes of the ESA are to provide a means whereby the ecosystems upon which endangered species 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. Those species listed as endangered under the ESA and which could be encountered in the groundfish fishery are: gray whale (Eschrichtius robustus), blue whale (Balaenoptera musculus), humpback whale (Megaptera novaaeanglie), right whale (Balaena glacialis), fin whale (Balaenoptera physalus), sei whale (Balaenoptera borealis), sperm whale (Physeter macrocephalus), and leather back sea turtle (Dermochelys coriacea).

The Council and NMFS have conducted a biological assessment as required under Section 7(c) of the ESA and have determined that the conservation and management measures proposed in the second amendment to the FMP are not likely to affect any listed threatened or endangered species under NMFS jurisdiction.

Marine Mammal Protection Act of 1972

The purpose of the MMPA is to protect marine mammals and 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 groundfish 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. The Certificate of Inclusion prevents the fishermen from being in violation of the MMPA in the event a marine mammal is taken incidental to normal fishing operations.

The Certificate of Inclusion providing for the incidental take of marine mammals is 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 groundfish fishing operations off the west coast have been issued by NMFS for a five-year period ending December 31, 1988. Commercial fishing under Amendment 2 to the FMP will not be any different than anticipated and provided for in the issuance of the General Permit.

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. Some slight modification of current recordkeeping requirements could be necessary to record the number and disposition of prohibited species, but no new reporting requirements would be imposed.