

APPENDIX C
OTHER APPLICABLE LAW

Endangered Species Act of 1973

The purposes of the ESA are to provide a means whereby the ecosystems upon which endangered 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 novaeanglie), 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 determined that the conservation and management measures proposed in the third amendment to the FMP would have no adverse impact on any listed threatened or endangered species under NMFS jurisdiction, and would not jeopardize the continued existence of any endangered or threatened species or result in destruction or adverse modification of habitat of any such species.

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 3 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 PRA 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. No options in the FMP amendment nor any regulations that might be necessary to implement the amendment will involve any federal government collection of information.