

## 10.0 COASTAL ZONE MANAGEMENT ACT OF 1972 AND ENDANGERED SPECIES ACT

Coastal Zone Management Act Of 1972. The relationship of the FMP to the CZMA of 1972 is discussed in Section 11.6.1 of the FMP. The alternatives in Amendment 6 are consistent, to the maximum extent practicable, with the coastal zone management programs of Washington, Oregon and California within the meaning of Section 307(c)(1) of the CZMA and its implementing regulations.

Endangered Species Act Of 1973 And Marine Mammal Protection Act. The purposes of the ESA are to provide a means whereby the ecosystems upon which threatened and endangered species depend may be conserved, to provide a program for the conservation of such threatened and endangered species, and to take such steps as may be appropriate to achieve the objectives of the treaties and conventions created for these purposes. Section 7 of the ESA requires all federal agencies to ensure that any action authorized, funded or carried out by such an agency is not likely to jeopardize the continued existence of any threatened or endangered species. Consideration of the MMPA, as other applicable law, is included here since some of the marine species are listed as threatened or endangered under the ESA.

Incidental mortality of all marine mammals, including those listed under the ESA, is a rare occurrence in groundfish fisheries according to information collected by NMFS (NMFS 1989 and 1991). Incidental mortality of marine mammal species is authorized under Section 114 of the MMPA. For Steller sea lions, which are listed as threatened under the ESA, incidental taking is authorized in the regulations at 50 CFR 227.12. With regard to the impacts of the groundfish harvests on marine mammal prey species, there is no evidence that the operation of groundfish fisheries off the coasts of Washington, Oregon and California is displacing marine mammals from essential habitat or depleting populations of forage species. Groundfish stock assessments do take predator removals into account as natural mortality and therefore the determination of allowable harvests should not adversely affect marine mammal food needs. Further, the coastal populations of marine mammals that prey on groundfish are either increasing (e.g., California sea lions, harbor seals, elephant seals) or have remained stable (e.g., Steller sea lions) for many years according to NMFS (1991), thereby indicating harvests are not adversely affecting these species. This information has been included in several Section 7 consultations (described below) that concluded the groundfish fisheries are not likely to jeopardize the continued existence of any threatened or endangered species.

A July 5, 1989 biological opinion prepared by NMFS on its Marine Mammal Exemption Program, concluded that incidental mortality of threatened or endangered marine mammals and marine turtles in association with all West Coast fisheries, including groundfish fisheries, is unlikely to jeopardize their continued existence. The U.S. Fish and Wildlife Service also prepared a biological opinion, dated July 3, 1989, which concluded that the exemption program and related fishing activities, including the groundfish fishery, were not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of U.S. Fish and Wildlife Service (e.g., seabirds). Since these biological opinions directly addressed the potential impacts of groundfish fisheries, the findings apply to the Pacific coast groundfish FMP and this action.

Subsequent to the aforementioned biological opinions, NMFS published emergency interim rules listing the Sacramento River winter-run chinook salmon (August 4, 1989, 54 FR 149) and the Steller sea lion (April 5, 1990, 55 FR 66) as threatened under the ESA. A Section 7 consultation was therefore re-initiated on Amendment 4 to the FMP. On August 10, 1990, NMFS issued a biological opinion that considered the effects Amendment 4 to the FMP may have on the threatened and

endangered populations off of the Washington, Oregon and California coasts. The opinion reviewed impacts on marine mammals, sea turtles and Sacramento River winter-run chinook salmon and concluded that the FMP, as amended, would not jeopardize the continued existence of any of the species considered. Final rules listing the Sacramento River winter-run chinook salmon and the Steller sea lion as threatened under the ESA were published on November 5, 1990 (55 FR 46515) and November 26, 1990 (55 FR 49204), respectively.

On November 26, 1991, NMFS issued a biological opinion that considered the effects of the domestic whiting fishery on Sacramento River winter-run chinook and concluded that the whiting fishery would not jeopardize the continued existence of Sacramento River winter-run chinook. An incidental take statement for Sacramento River winter-run chinook was included with the opinion. The opinion also stated that Snake River sockeye salmon, which was listed as endangered under the ESA on November 20, 1991 (56 FR 58619), would not be adversely affected.

This amendment is within the realm of activities considered in the aforementioned opinions that apply to the groundfish fishery. Implementation of a license limitation system is not anticipated to significantly modify the groundfish fishing activities nor change the total catch or effort in the fishery that was considered and analyzed in the past opinions. Therefore, re-initiation of consultation is not necessary for this amendment because it is unlikely to adversely affect any threatened or endangered species and is within the scope of past biological opinion conclusions that the groundfish fishery is unlikely to jeopardize the continued existence of species listed as threatened or endangered under the ESA.