

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver *CO*
Acting Executive Director

DATE: April 2, 2001

SUBJECT: Steller Sea Lions

ESTIMATED TIME 8 HOURS

ACTION REQUIRED

- (a) Review status report on the analysis and alternatives for 2002 amendment package.
- (b) Receive RPA Committee report.
- (c) Recommend measures for the second half of 2001.
- (d) Receive update on independent reviews.

BACKGROUND

2002 Amendment package

A full amendment package is being developed for Council action in October 2001, which would propose a package of sea lion protective measures (RPAs) for implementation in January 2002. Staff has begun work on the environmental impact statement, and a draft Table of Contents is attached as Item C-2(a). Our intent is to contract much of the socioeconomic analysis, with guidance from NMFS Region economists.

In February, the Council reviewed an initial set of alternatives based on the previous RPAs recommended by the Council (Item C-2(b)). The Council recommended that the RPA Committee consider the elements and options contained in the September 2000 EA/RIR for the Pacific cod fisheries (Item C-2(c)), when developing their final set of alternatives for June. At the June meeting the Council will need to finalize the alternatives for analysis.

RPA Committee

In January, the Council established an RPA Committee to make recommendations on sea lion protection measures for the second half of 2001 and develop an alternative RPA for the 2002 plan amendment analysis. The RPA Committee is composed of 21 members from the fishing community, the conservation community, NMFS, SSC, and State agencies.

The RPA Committee met several times to review SSL science, the Biological Opinion RPA, and fishery and survey information. Meetings were held on February 10, February 20, March 6-7, March 26-29, 2001. A full report, including minutes from all meetings and the Committee's recommendation for the second-half 2001 fisheries is attached as Item C-2(d). Committee Chairman Larry Cotter will report to the Council on their recommendations.

Recommendations for second half of 2001

At this meeting, the Council will need to make final recommendations for fishery regulations after the current emergency rule expires. A complete description and justification of the 2001 Steller sea lion protection measures are discussed in the preamble to the January 22, 2001, emergency rule (66 FR 7276). These measures are summarized below:

1. No transit zones within 3 nautical miles (nm) of 37 rookery sites;
2. Closure within 10 or 20 nm of 37 rookeries to all trawling year-round;
3. Closure to pollock fishing within 10 or 20 nm of 75 haulouts, seasonally or year-round based on use by sea lions;
4. In the Bering Sea pollock fishery: (a) four seasons with harvest limits within CH; and (b) two seasons (40:60 percent allocation) outside critical habitat;
5. Continuation of Bering Sea pollock fishery cooperatives established under AFA;
6. Gulf of Alaska pollock fishery distributed over four seasons (30:15:30:25 percent allocation);
7. Closure of the Aleutian Islands to pollock fishing;
8. Atka mackerel fishery measures include a vessel monitoring system requirement, continuation of two equal seasons, and restrictions on harvests in critical habitat;
9. Closure of the groundfish fishery to federally permitted vessels within 3 nm of more than 75 important haulout sites identified under established criteria;
10. Two fishing seasons for BSAI and GOA Pacific cod, January 1 to June 10 (60 percent of the total allowable catch (TAC)) and June 11 to December 31 (40 percent of the TAC);
11. Reduction of the allowable catch for Gulf of Alaska pollock from the Council's recommended 2001 level by 10 percent; and
12. The 2001 Bering Sea pollock harvests in the Steller sea lion conservation area (SCA) are limited to no more than the metric ton amount authorized in the final 2000 harvest specifications.

These regulations were modified in the March 29 *Federal Register* notice (66 FR 17083) to allow for fishing within haulout and rookery areas for vessels using jig gear off Alaska, and on vessels less than 60' using fixed gear in the BSAI.

In addition, the emergency rule implemented the closed areas contained in the RPA on June 10, 2001, for the pollock, Pacific cod, and Atka mackerel fisheries. These will be implemented unless the Council recommends modifications to these closures. Note that the RPA Committee has recommended a suite of closure areas for the Council to consider. At this meeting, the Council will make final recommendations for the second half of 2001.

Update on independent reviews

After consultation with SSC members and the Council's Steering Committee, I have completed the Statements of Work (SOWs) and signed contracts to initiate the National Academy of Science (NAS) review and a short-term review by an independent team of scientists. Item C-2(e) is a copy of the SOW for the short-term independent review, for which we expect an initial report in June and a final report in September. Members of that review team are (1) Dr. Don Bowen (Chair) from the Bedford Institute of Oceanography, DFO, Nova Scotia; (2) Dr. Dan Goodman, Systems Ecologist, Department of Biology, MSU; (3) Dr. John Harwood, Sea Mammal Research Unit of the Gatty Marine Lab, University of St. Andrews, Scotland; and, (4) Dr. Gordon Swartzman, School of Fisheries and Center for Quantitative Science, UW. While several other leading scientists were contacted for this review, these four gentlemen were available in this short time frame and I believe will provide us a broad scientific perspective on these issues. As is described in the

SOW, we will be utilizing their expertise through this fall when we are scheduled to make a final decision on the RPAs and experimental design.

The NAS study is also underway, though I do not yet know the specific scientists chosen for that review. The SOW for that review is attached as Item C-2(f). We eliminated the sub-task related to input on the experimental design, as we have several other avenues of input for that issue. We also wanted the NAS to be able to focus on the other major issues in question, and be able to provide us a report by June 2002.

Steller Sea Lion RPA Amendment Analysis
DRAFT TABLE OF CONTENTS

4/3/01 @ 8am

Cover Sheet

Executive Summary (*includes major conclusions, areas of controversy, and the issues to be resolved*)

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 - 1.1 Introduction
 - 1.2 Purpose and Need
 - 1.3 Overview of Applicable Laws
 - 1.4 Related NEPA Documents
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 - 1.5.2 Issues Identified During Scoping
 - 1.5.3 Issues Studies in Detail

- 2.0 Alternatives including the proposed action
 - 2.1 NEPA Guidance for Alternatives
 - 2.2 Background and History Specific to Understanding the Process Used to Formulate the Alternatives for this Federal Action
 - 2.2.1 Action Area and Critical Habitat
 - 2.2.2 History of Federal Actions Affecting Steller Sea Lions or Critical Habitat
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 - 2.3.2 Alternative 2
 - 2.3.3 Alternative 3
 - 2.3.4 Alternative 4
 - 2.3.5 Alternative 5
 - 2.4 Alternatives considered and eliminated from detailed study
 - 2.5 Detailed description of the fisheries - Status Quo
 - 2.5.1 Overview of the federal groundfish fisheries (*directed fisheries-- pollock, Pacific cod, Atka mackerel and non-directed other fisheries; gear--trawl, pot, jig, hook and line; and CDQ fisheries*). *Number of quotas being managed and how directed fisheries are determined.*
 - 2.5.2 Spatial and Temporal Fishing Patterns
 - 2.5.3 State water fisheries (*source: Kruse report. Includes explanation of state and federal openings within state waters*)
 - 2.5.4 Management tools used for estimating catch and monitoring location of catch (*observer program, recordkeeping and reporting, VMS use*)

- 3.0 Affected Environment
 - 3.1 Steller Sea Lion
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 - 3.1.3 Reproduction
 - 3.1.4 Survival
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- 3.1.6 Prey and Foraging Behavior
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 - 3.1.6.7 Synthesis of Prey and Foraging Success
- 3.1.7 Physiology
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- 3.1.11 Population Status and Trends
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- 3.1.13 Review of competing hypotheses on causes for decline and impediments to recovery
- 3.2 Other ESA listed species
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- 3.4 Prohibited species (*salmon, crab, halibut, herring*)
- 3.5 Target species:
 - 3.5.1 *what is known about location of exploitation in relation to size at age-- pollock, Atka mackerel, Pacific cod – and how it influences future biomass predictions*
 - 3.5.2 *gear - describe what is known about any differential impacts to the target species due to type of gear used to harvest*
 - 3.5.3 *explain stock assessment techniques that lay ground for understanding global control rule*
- 3.6 Seabirds - *those species not ESA listed*
- 3.7 Marine benthic habitat -- *set up for analysis of disturbance impacts by fishing gear*
- 3.8 Descriptions applicable to understanding social and economic issues - *pull from Lew and Ben's outline*
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 - *predict whether the harvest rate or patterns of harvest would change the stock assessment advice*
 - 4.2 Effects on Marine Mammals
 - *predict whether the management measures would result in (faster, no change, or slower) recovery of western stock of SSL*
 - *show incremental benefit to SSL recovery across alternative suites of management measures*
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 - 4.2.1.4 Alternative 4
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- 4.5 Effects on Prohibited Species Bycatch
 - 4.5.1 Bering Sea and Aleutian Islands Area
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- 4.6 Effects on Incidental Catch of other target species, and other species
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(*Includes a summary of the RIR, community impacts, impacts on state water fisheries*)
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 - 4.10.1 Cumulative Effects resulting from past fishery management measures
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- 5.1.4 Description of the Fisheries
- 5.1.5 Description of the Alternatives

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- 5.2.2 "Non-use" (e.g., Existence) Values From Increased Likelihood of Stock Survival
- 5.2.3 "Use-values" From Steller sea lions
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 - 5.2.5.3 Non-target Groundfish (*spillover effects*)
- 5.2.6 Cost to U.S. Consumers
 - 5.2.6.1 Price effects
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- 5.2.7 Changes in Management Cost (*including state management*)

- 5.2.8 Net Benefit Assessment
- 5.2.9 Distributional Impacts
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 - 6.2.1 Purpose and Need for the Action
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 - 6.2.3 Description of the alternatives
 - 6.3 Number and description of affected small entities
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 - 6.4.1 Alternative which could minimize Impacts on Small Entities
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- 8.0 List of preparers
- 9.0 List of agencies, organizations, and persons to whom copies of the statement are sent
- 10.0 References
- 11.0 Tables
- 12.0 Figures

Summary of Initial Alternatives for Analysis of 2002 RPA
proposed by staff 2/1/01

- Alternative 1** No Action. Regulatory measures implemented by emergency rule, and designed to protect Steller sea lions, would expire. *Note that this is not a viable alternative, as it is non-compliant with the ESA and P.L. 106-554.*
- Alternative 2** Implement the suite of RPA measures that were in place for the 2000 pollock and Atka mackerel fisheries, and implement measures for the Pacific cod fishery that include seasonal apportionments and harvest limits within critical habitat (this assumes we will need to add measures for Pacific cod).
- Alternative 3** Implement the measures detailed in Alternative 2, and prohibit all trawling within critical habitat (injunction).
- Alternative 4** The RPA detailed in the November 30, 2000 Biological Opinion will be implemented in its entirety.
- Alternative 5** The RPA developed by the Council and its Committees.

Details of Alternative 2

Applicable to all fisheries:

- No transit zones within 3 nm of 37 rookeries.
- Closure within 10 or 20 nm of 37 rookeries to all trawling year-round.

Applicable to pollock fisheries

- Closure to pollock fishing within 10 or 20 nm of 75 haulouts, seasonally or year-round based on use by sea lions.
- In the Bering Sea pollock fishery: four seasons with harvest limits within sea lion critical habitat foraging areas; and two seasons (40:60% allocation) outside critical habitat.
- In the Gulf of Alaska pollock fishery: fishery distributed over 4 seasons (30:15:30:25).
- Closure of the Aleutian Islands to pollock fishing.

Applicable to the Atka mackerel fisheries

- Atka mackerel fishery: two equal seasonal TAC apportionment, with restrictions on harvest within critical habitat, and a VMS requirement.

Applicable to the Pacific cod fisheries

- In the BSAI cod fishery: separate TACs would be established for the Bering Sea and Aleutian Islands, two seasons (A season Jan 20-April 30 at 40% of TAC; B season May 1-Nov 1 at 60% of TAC) with harvest limits within critical habitat based on best estimates of biomass. Using these estimates, the Bering Sea TAC limits within CH are 20% in the A season and 3.6% in the B season. In the Aleutian Islands, the TAC limits within CH are 20% in the A season and 48.3% in the B season.
- In the GOA cod fishery: two seasons (A season Jan 20-April 30 at 40% of TAC; B season May 1-Nov 1 at 60% of TAC) with harvest limits within critical habitat based on best estimates of biomass. Based on these estimates, the TAC limits within CH to start with are 20% in the A season and 31.8% in the B season.

Council Action on Steller Sea Lion/Pacific Cod Interactions

September 11, 2000

Final Draft

Draft Problem Statement

Steller sea lion (SSL) populations have declined and there are numerous reasons hypothesized for the decline. Recently, Steller sea lions have been listed as endangered in the western portion of their range under the Endangered Species Act (ESA), and it is suggested that they may be nutritionally stressed. Pacific cod is one of many recognized food items of Steller sea lions and the Pacific cod fishery has been identified as a potential source of competition that might result in jeopardy to Steller sea lions as that term is used in the ESA.

Revised Purpose and Need Statement

The purpose of this action is to consider the need to develop and implement management measures that reduce competition between Pacific cod fisheries and sea lions if such competition is found to be a likely source of jeopardy as that term is used in the ESA. This action must provide research and adaptive management measures for the evaluation of the likelihood that fishery removals of Pacific cod are a significant factor in the failure of sea lion populations to increase.

Management Measures

The Council concurs with the SSC that the premise upon which Council action is based is so tenuous that adoption of the alternatives is imprudent and may deprive individuals and communities of their livelihoods without justification. However, because this is the initial review and NMFS has requested that the Council develop alternatives, the following is proposed for further analysis:

Alternatives for the GOA:

- A. Divide fishery into two seasons. ("A" & "B")
 - 1. 'A' Season: January 1 - April 30
 - 2. 'B' Season: May 1 - December 31

- B. Phase in implementation of seasonal and critical habitat Total Allowable Catch (TAC) limits.
 - 1. 'B' season Critical Habitat (CH) limit to be frameworked and based annually on biomass distribution in summer survey.
 - 2. No 'B' season limit in CH.

Option 1:

- 1. 2001 'A' Season: No more than 80 % of TAC and no more than 60% in critical habitat.
- 2. 2002 'A' Season: No more than 70% of TAC and no more than 50% in critical habitat.

Option 2:

- 1. 2001 'A' Season: No more than 60% of TAC and no more than 40% in critical habitat.
- 2. 2002 'A' Season: No more than 50% of TAC and no more than 30% in critical habitat.
- 3. 2003 'A' Season: No more than 40% of TAC and no more than 20% critical habitat.

NOTE: The phase in would be superseded when winter survey data on biomass distribution is available.

- C. Option 1: Keep federal waters open under current regulations around rookeries and haulouts open to all gear types.

Option 2: Allow the following:

a. Rookeries

<u>0-3nm</u>	<u>3-10nm</u>	<u>10-20nm</u>	<u>outside 20nm</u>
no fishing	pot (60 pot limit) jig (5 machines) CV longline	pot jig longline (all) Trawl <80' (suboption) Trawl <100' (suboption) All trawl vessels (suboption)	all vessels

b. Haulouts

<u>0-10nm</u>	<u>10-20nm</u>	<u>>20nm</u>
pot (60 pot limit) jig (5 machines) CV Longline	pot longline (all) jig trawl <80' (suboption) trawl <100' (suboption) All trawl vessels (suboption)	All vessels

- NOTES:
1. Section C, Option 2, pertains to directed cod fisheries.
 2. Rookeries and haulouts would be defined as those designated in the Reasonable and Prudent Alternatives for pollock.

D. During the parallel fishery that takes place within State waters (zero to three miles), the fishery will start on January 1 and fishing may occur within currently open rookeries and haulout areas. The fishery is limited to longline, pot, and jig vessels with the following restrictions:

1. Pot Limits:
Option a. 60
Option b. 75
Option c. 100
2. A limit of 5 mechanical jigging machines for vessels using jig gear.
3. Retain inside trawl exemptions provided by Board of Fisheries in Shumagins.

E. Remainder of seasonal and critical habitat limits in federal waters is allocated to catcher vessels, catcher processors and pot fisheries by gear type based on historic catch and percent within critical habitat.

Alternatives for the Bering Sea

An additional alternative would be added to the EA/RIR for the Bering Sea, with the following elements:

A. Management measures

1. Two seasons: 'A' and 'B'.

Rationale: This measure would spread harvest across the year in CH* waters of the Bering Sea.

*For the purpose of this motion, CH does not include haulouts.

2. 'A' season start/end dates:

	<u>Trawl</u>	<u>Fixed Gear</u>
'A' season start	January 20	January 1
'A' season end	May 31	May 31
'B' season start	June 1	June 1
'B' season end	November 15	December 31

Rationale: This 'A' season start provides to fixed gear fleet the advantage of access to their traditional fishing grounds and reduces the potential for high catch rates at the outset of the season by delaying the start of the trawl fishery until January 20. The 'B' season start for the fixed gear sector should balance catch objectives with potential for significant rollovers and bycatch considerations. The end date for the 'B' season for trawl is the date used for the Atka mackerel trawl fishery.

Option 1:

1. Critical Habitat limit on Pacific cod removals in the 'A' season.

The 'A' season TAC=60% of annual TAC, and 60% of the 'A' season TAC can be taken in CH in 'A' season.

NOTE: This season split should be used to determine the 'A' season harvest limit for CH. This alternative does not limit the amount of cod that can be harvested outside of CH.

Rationale: This is a mechanism to ensure a balanced harvest of cod in CH throughout the year, while still preserving some element of the basic nature of the fishery which is that cod are best fished when they are aggregated during the first part of the year.

The actual winter distribution of Pacific cod is currently not obtainable from available data, but distribution of cod fishing effort in the Bering Sea suggests that cod are mostly found in the Bering Sea CH for at least the first two to three months of the year. When a winter survey is conducted, the proportion of Pacific cod in CH can be substituted for the above CH fishing limit.

2. No 'A' or 'B' season limit outside CH.

Rationale: The objective is to spread fishing over the year to reduce potential for competition with Steller sea lion foraging. Given that increased fishing outside of CH has little or no impact on sea lion CH and serves to reduce overall CH removals to below the 'A' season CH limit, then fishing outside of CH should not be limited. This could also help the industry reduce the economic impacts of modifications to the cod fishery by increasing opportunity to harvest the entire TAC in an area that is less important to sea lion foraging, as per the designation of CH.

3. No "B" season CH limit.

Rationale: Cod are not primarily located in CH during the second portion of the year and little fishing occurs in CH for that reason. The creation of a "B" season limit could actually trigger a small "race for fish" inside CH.

4. CH cod catch in the "Residual CH" area do not count against CH catch limit.

Rationale: The "crescent" shaped area on the eastern edge of sea lion CH (also referred to in the analysis as "residual SCA") is not CH. This means that in designating CH, areas sufficiently distant from the feeding range of sea lions should not be included in the CH designation. The argument in the analysis that "edge effects" could occur could be said of any area adjacent to CH, regardless of how far that line is placed.

5. Attainment of CH 'A' season limit closes CH to directed cod fishing only. Bycatch in non-cod target fisheries should be deducted from individual gear and sector catch limits, based on historical usage. Attainment of the CH limit should trigger MRB (bycatch-only) status for cod in CH, not closure of area to non-cod target fisheries.

Rationale: Flatfish and other non-pollock fisheries that occur during the proposed 'A' season period do not generally take large quantities of cod as bycatch. Evidence of this is apparent when catch per week of cod is evaluated in weeks where Pacific cod is closed to directed fishing or in weeks when little or no cod effort is occurring. There is no reason to hamstring vessels targeting other species that need to fish in their traditional areas in order to maintain catches at economic levels, with low bycatch rates.

6. Rookery "no-trawl" areas to be maintained according to current regulations.

Rationale: Sea lions demonstrate no fidelity to haul outs and use of haul outs is variable (testimony of John Burns to NPFMC Advisory Panel on September 8, 2000). Existing measures restricting trawl fishing for non-pollock species to outside ten miles around sea lion rookeries (including the seasonal 20-mile closures at three specific sites) have not been tested for efficacy. Until this research is done, there is no evidence to suggest that extension of the rookery closures will benefit sea lions.

7. Fixed gear can continue to be fished in rookery "no trawl" zones. (NOTE: Fishing with any gear should not be restricted in haulouts).

Catch rates of cod per week by the portion of fixed gear vessels fishing in Bering Sea CH are relatively low. To force these vessels to fish outside of rookeries could impact their ability to fish (in the case of smaller vessels) and will create needless grounds conflicts and possibly gear conflicts.

Option 2:

Bering Sea east of Seguam Pass

a. Rookeries

<p><u>0-3 nm</u> no fishing</p>	<p><u>3-10nm</u> pot (60 pot limit) jig (5 machines) CV longline</p>	<p><u>10-20nm</u> pot jig longline (all) Trawl ≤100' (suboption) Trawl <125' (suboption) All trawl vessels (suboption)</p>	<p><u>outside 20nm</u> all vessels</p>
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b. Haulouts

<p><u>0-10nm</u> pot (60 pot limit) jig (5 machines) CV longline</p>	<p><u>10-20nm</u> pot jig longline (all) Trawl ≤100' (suboption) Trawl <125' (suboption) All trawl vessels (suboption)</p>	<p><u>>20nm</u> All vessels</p>
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NOTE: Rookeries and haulouts would be defined as those designated in the Reasonable and Prudent Alternatives for pollock.

c. Critical Habitat

pot
jig
longline (all)
trawl $\leq 100'$ (suboption)
trawl $< 125'$ (suboption)
All trawl vessels (suboption)

B. Proposed distribution of allowed CH fishing between different gear sectors.

Option 1: The "pain sharing" formula will use historical dependence on fishing during the first half of the year and historical dependence on fishing in CH in the first half year, per gear and sub-sector.

The principle for compensation for pain sharing, as envisioned, would be that in the event of a significant rollover of cod from trawl to fixed gear, the trawl sector would work with the fixed gear sector to maximize the ability of the fixed gear sector to harvest the fish that are rolled over. A formula for rolling over cod earlier in the year so that the rollover works for the fixed gear sector should also be developed.

Option 2: Any 'A' season reduction in CH quota, to protect sea lions, would be absorbed by each subsector in direct proportion to its historical 'A' season catch in CH.

C. Rookery and Haulout Alternatives for All Areas

1. Closure in rookeries only.
2. Rookery no-trawl areas to be maintained according to current regulations.
3. Fixed gear can continue to be fished in rookery no-trawl zones.
4. Rookeries and important haulout closures as per pollock RFRPAs (generally 20 nm in BS and 10 nm in AI and GOA).

D. Vessel Safety

Analyze impacts of CH restrictions on the following size classes of vessels:

BSAI
-less than 125'
-less than 100'
-less than 60'

GOA
-less than 100'
-less than 80'

Other Recommendations

The Council identifies Alternative 1 as the preferred option for both the Gulf of Alaska and the Bering Sea and Aleutian Islands.

Further, the Council requests that NMFS conduct annual winter biomass surveys in the GOA and BSAI, and that adaptive management research and surveys be allowed to continue in critical habitat.

The Council shares the concerns identified by the SSC regarding the EA/RIR. In addition to the changes recommended by the SSC, the analysis needs to be enhanced with the following information to better evaluate the question of competition between the fishery and the sea lions:

Where there is discussion in the text concerning elements of overlap (diet composition, fishing/diving depths, size composition, etc.), the text should avoid presenting information on the extreme ends of those ranges of data, without providing characterization about the distribution of the data that provides the reader with a clear understanding of the central tendency of the data. The presentation of fishery depths and sizes on pages 37 & 38 is an example of an appropriate presentation.

Examples of inappropriate presentations:

- Page 53 Sea lions dive up to 250 meters (doesn't represent the avg or range)
- Page 57 Sea lion scats contain up to 62% cod (doesn't give avg or range)
- Page 57 Sea lions consume cod up to 80 cm (nothing in data to support; only one data point of 75)
- Page 28 Mackerel, herring, capelin, etc. can be less than 5% of cod diet in any given year (no average given per year)

Though the EA "tiers" off the prior BiOps, the public would be better informed if important information regarding sea lions was recapped (and updated) in the EA:

- Population data (both counts and population estimates by year and area, including pup counts and pup population estimates by year and area). This should update and expand upon Table 7 from the December 1998 BiOp.
- Telemetry data on sea lion dive depths should include and update Figure 36 from the December 1998 BiOp. (Including similar data tables from the paper on diving behavior by Loughlin et al. 1998, as well as a review of information on ongoing research that may be available to the agency but not yet in press.)
- Expanded information on GIS analysis of foraging patterns (presented in such a way that the reader has an understanding of the central tendency of the data, as well as the extremes of the ranges), including a review of information on ongoing research that may be available to the agency but not yet in press.
- Presentation of quantitative data on estimated human-caused sea lion kills and an estimate of their contribution to the decline.
- Presentation of best available data on estimates of killer whale populations and their consumption of sea lions and the role they might play in impeding recovery.
- A review of the literature regarding the applicability of the "nutritional stress" hypothesis to the decade of the 1990s, with regard to data on condition factors of sea lions, including a review of information on ongoing research that may be available to the agency but not yet in press.
- A presentation of the case for "regime shift hypothesis."

The EA should also include a quantitative analysis of the probabilities of overlap and competition as outlined in the SSC minutes. This should include quantification of the area of overlap in depth by category of animal (ie: juveniles, lactating females, etc.) and by fishery and area. It should also include a quantification of overlap in diet in both weight/biomass consumed by the fishery and by sea lions by age/size class of cod by area.

The analysis of total groundfish consumption by Stellers presented on page 55 is based on 1980's population estimates and provides little area specific information. This portion of the EA needs to be updated using current population levels by area, and broken down by key prey species to the extent possible. A review of the current literature should be undertaken (including a thesis by Winship in 2000) for more recent estimates.

The size analysis of cod in sea lion scat shown in Figure 31 on page 235 is a much smaller data set than Table 3 of the June 2000 discussion paper. Both sets of information should be included in the EA. Additionally, the review of stomach content studies from the December 1998 BiOp should be included (Table 6 pages 147-157).

The preliminary CPUE analysis presented on page 34-37 and in Figure 5 should be included only if the deficiencies noted by the SSC are incorporated. Additionally, the statement concerning interpretation of the Martin Smith analysis based on this work (page 49) should be deleted.

CPUE analysis should be undertaken to compare winter and summer CPUEs in CH as a potential index of abundance changes between seasons. However, any further CPUE work undertaken should avoid mixing CV and CP catches, as well as mixing target and non-target catches. Time series of CPUE data should clearly delineate the opening and closing of target fishing in the study areas, or sub-components thereof.

The EA should include a thorough review of the cumulative measures that constitute the current cod fishery management regime, together with the matrix of closures that apply to the cod trawl fishery, as well as a quantification of the reduction in fishing for pollock and mackerel in CH that has resulted from actions related to sea lion concerns.

The estimate of cod in the SCA based on the summer trawl survey should include the amount of cod estimated in the Southern Bering Sea portion of the AI survey.

The statement regarding bottom trawl and Spectacled Eiders on page 72 should be deleted.

Expand the trophic analysis relative to P. cod diet.

Include information on how rookeries and haulouts were identified, particularly the haulouts.

Discussion on page 41 regarding edge effects should be deleted from the document as the crescent is not designated as CH and edge effects, by definition, would occur anywhere the edge is replaced.

An expanded discussion on the ramifications of the state water fishery relative to the federal fishery.

For the Bering Sea/Aleutian Islands and Gulf of Alaska cod fisheries each sub-sector should be evaluated for spatial and temporal dispersion, and rate and volume of catch in critical habitat, and fixed gear and trawl sectors should be evaluated in the same manner.

NMFS Fisheries Research

Also, the Council will send a letter to the Secretary of Commerce, with a copy to the Alaska, Washington, and Oregon Congressional delegations, requesting that adequate funding be provided in the Department of Commerce's budget for Steller sea lion research for immediate use by NMFS RACE division to launch winter biomass surveys in sea lion critical habitat and the 3 aquatic foraging habitat areas this year. This letter should emphasize that an adequate level of funding is needed on an annual basis to provide essential data for managing fisheries. The Council further recommends that NMFS utilize commercial fishing vessels, crews and expertise, as well as collaborate with the State of Alaska to the extent possible to most efficiently use these limited funds to conduct stock assessment and management efficacy studies.

Fishery Rationalization

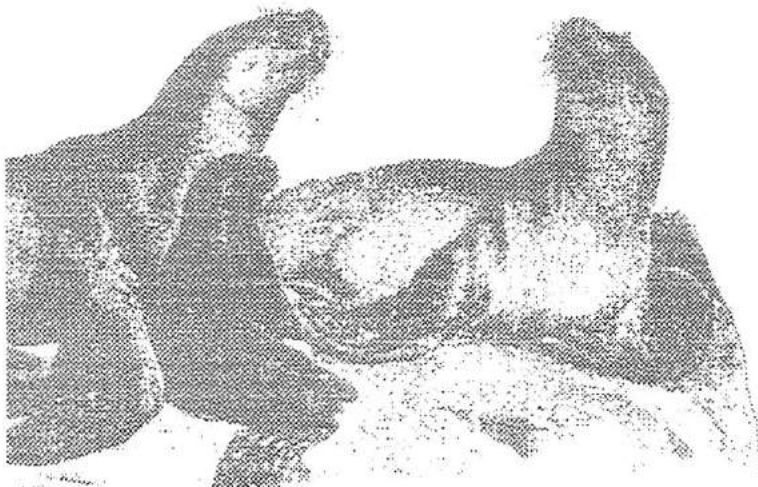
The EA should include a discussion of the regulatory changes that would be necessary to facilitate the voluntary formation of harvesting cooperatives in the BSAI and GOA cod fisheries, along with a proposed timetable for Council action that describes the steps necessary to enable the various sectors wishing to form cooperatives to do so as quickly as possible, hopefully in time for the 2001 fisheries.

Future Consultations on Commercial Fisheries and Steller Sea Lion Interactions

The Council will send a letter to the NMFS Alaska Region indicating its strong desire that the agency address, to every extent possible, the scientific concerns put forward by the SSC and AP as regards the cod-Steller sea lion EA as it completes the comprehensive FMP-level consultation that it will deliver on October 31, 2000.

RPA Committee Report
to the
North Pacific Fishery Management Council
April 2001

Larry Cotter, chair
Dave Witherell, staff



Reasonable and Prudent Alternative (RPA) Committee

A progress report to the
North Pacific Fishery Management Council
April 2001



Larry Conner, chair
Dave Witherell, staff

RPA Committee Members

- | | |
|------------------------|----------------|
| ■ Larry Cotter (chair) | ■ John Winther |
| ■ Dave Benson | ■ Bob Small |
| ■ Shane Capron | ■ Fred Robison |
| ■ Doug DeMaster | ■ Gerald Leape |
| ■ John Guavin | ■ Jerry Bougen |
| ■ Terry Leitzell | ■ John Iani |
| ■ Alan Parks | ■ Matt Moir |
| ■ Beth Stewart | ■ Dave Cline |
| ■ Jack Tagart | ■ Steve Drage |
| ■ Sue Hills | ■ Tony DeGange |
| ■ Wayne Donaldson | |

Background

- In February, the Council tasks the Committee to:
 - To make recommendations on open/closed areas 2001.
 - Council direction: give consideration to small boat concerns in development of open/closed areas; such measures should be developed in a 'non-allocative' manner.
 - To develop RPA alternative and experimental design for 2002 amendment package for June meeting.

Goals and Objectives

- Goal: Develop an RPA that meets the mandates of the ESA, MSFCMA, and other applicable laws, while conserving marine biodiversity and sustaining viability of the diverse fishing communities dependent upon the Alaska fishery resources.
- Objectives:
 - Remove jeopardy and adverse modification.
 - Develop a sound experimental design for monitoring.
 - Minimize social and economic impacts.
 - Minimize bycatch of PSC and other groundfish.
 - Promote safety at sea.

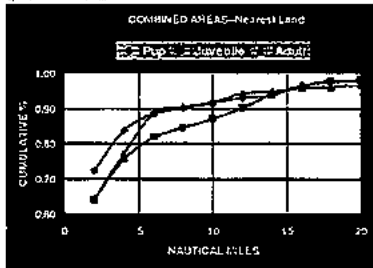
Meetings To Date

- February 10: meeting schedule, initial data requests.
- February 20: ESA, NEPA; refined data request.
- March 6-7: goals & objectives, jeopardy & adverse modification criteria, killer whale abundance studies, scat studies, SSL biology, NMFS surveys, ASSLRT report.
- March 25-29: MSFCMA, Kodiak prey studies, satellite telemetry data, GIS catch/survey/count data analysis, developed final recommendation for 2001.

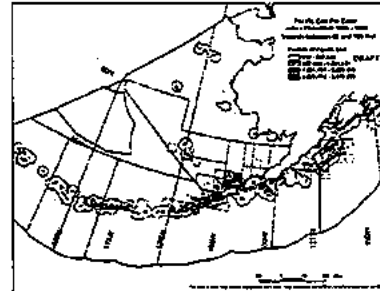
Analyses Undertaken for Committee

- Satellite Telemetry Data Summary
 - distance from shore and marking location
- Geographic Information System (GIS) Maps:
 - catch by gear type and vessel size
 - NMFS trawl survey data by ADF&G statistical area
 - SSL counts, rookeries and haulouts
 - SSL trends by region (metapopulation analysis)
 - Platform of opportunity data (sightings of SSL)
 - Vessel safety data (locations of accidents)
- 1999 Ex-vessel and Product Value Data
 - by area, vessel length group and gear type

Summary of Satellite Data



Example Map of GIS data



ESA Mandates

- ESA requires that each Federal agency insure that any Federal action is not likely to: (1) jeopardize the continued existence of any listed species OR (2) result in the destruction or adverse modification of critical habitat of such species.
 - Jeopardize the continued existence means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.
 - Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.

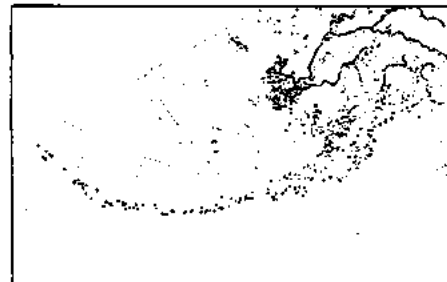
MSFCMA Mandates

- 10 National Standards
 - Prevent overfishing and achieve OY. Best scientific information, stock unit management, non-discriminatory, efficiency, variability, minimize costs, fishing communities, reduce bycatch, promote safety.
- Required Contents of FMPS
- Provisions of Public Law 106-554
 - BiOp RPA to be phased in 2001, and implemented in 2002, but revised as necessary based on independent scientific review and other new information.
 - Council transmits FMP amendment to implement RPA.

RPA Criteria

- at least 50% of CH should be closed to fishing for pollock, cod, and mackerel;
- closures should protect at least 50% of the non-pup population and at least 75% of pups;
- measures should avoid jeopardy (assumes fishery causes decline);
- a monitoring program must be included (2002 and beyond).

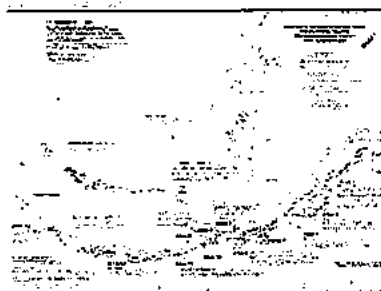
Map of BiOp RPA



Committee Recommendations

- Change season opening dates
 - GOA: change cod to Sept 1 (all gears)
 - BS: change cod longline to Aug 15, and pot to Sept 1, and pollock to June 11.
 - AI: change cod longline to Aug 15, mackerel to Sept 1
- Modify RPA area closures
 - based on NMFS recommendation, using BiOp RPA numbered areas for changes.
- Coordinate efforts with State for 0-3 nm

Recommended Open/Closed Areas



Summary of RPA Protection

<u>Criteria</u>	<u>BiOp</u>	<u>Committee</u>
≥ 50% CH	66%	57%
≥ 50% non-pups	56%	80%
≥ 75% pups	74%	80%

Upcoming Meeting Schedule

- April 17-19 in Anchorage (tentative)
 - at the Holiday Inn, starting at 8 am
- May 9-11 in Juneau
 - at the NMFS Conference Room, starting at 10 am
- May 21-24 in Seattle
 - at the AFSC Building 4, starting at 1 pm

RPA Committee List of Handouts

February 10 - no handouts

February 20

Draft agenda and copy of letter from Benton to Evens dated 2/14/01.
Draft minutes of Feb 10 meeting.
Committee address list.
Summary of proposed alternatives for 2002 RPA.
Maps of BiOp RPA
Elements of the RPA contained in the November 2000 Biological Opinion
Memo from L. Smoker on standards for ESA dated 2/7/01

March 6-7

Draft agenda and minutes from previous meeting.
Bullets on ESA legal standards and tables of BiOp guidelines
Letter from Balsiger to Benton, dated 2/1 on NEPA analysis for Amendments
Letter to Cotter from Kruse, dated 3/3/01 on ASSRT advice to committee.
Table on satellite data collected by ADF&G.
Table and figures on scat frequency of occurrence data from B. Sinclair.
Scientific paper: Killer whales in Alaska documented in the platforms of opportunity program
Scientific paper: Low genetic variation among killer whales...(Hoelzel et al)
Scientific paper summary: Impact of killer whale predation on harbor seals in PWS...
Scientific paper: A photographic catalog of killer whales from central GOA to southeast BS.
Scientific paper: An analysis of the Steller sea lion metapopulation in Alaska (York et al.)

March 26-29

Draft Agenda and minutes of previous meetings.
GIS maps of catch data, and revised handouts during meeting.
1999 Ex-vessel and product value data summarized for the RPA committee.
Selected provisions of the Magnuson-Stevens Act and Section 209 of Public Law 106-554.
Preliminary results (overhead figures) of satellite telemetry data.
Summary of satellite telemetry data, with figures and excel spreadsheet.
Overheads of Gulf Apex Predator-prey study, UAF, Kodiak.
Table of SSL rookery and haulout database, PRD-Juneau.
Draft Federal Register notice of ER modification to allow jig gear.
Updated table on rate of increase of adults at Steller sea lion rookeries in western Alaska, 1991-2000.
Implementation of SSL Protection measures for 2001 (from 1/01 Council Newsletter).
Written proposals from committee members.
Leape handout on principles and guidelines for RPAs.
Public testimony handout on SSL and the BSAI Pacific cod longline fishery.
Alaska marine mammal stock assessments, 2000
DRAFT recommendation of the RPA Committee for 2001 fisheries.

**Minutes of the RPA Committee Meeting,
February 10, 2001**

Members Present:

*Larry Cotter (chair)
Dave Benson
Tony DeGange
Doug DeMaster*

*John Gauvin
Terry Leitzell
Alan Parks
Beth Stewart*

*Jack Tagart
John Winther*

Members not present: *Jerry Bongon, Shane Capron, Steve Dragge, Sue Hills, John Iani, Gordon Kruse, Gerald Leape, Fred Robison, and Bob Small.*

Staff present: *Dave Witherell (coordinator), Chris Oliver, Cathy Coon, Tamra Faris (NFMS), Lauren Smoker (NOAA GC), Hermann Savikko (ADF&G).*

Background - On November 30, NMFS released a comprehensive Biological Opinion on the groundfish fisheries of the BSAI and GOA, pursuant to section 7 of the Endangered Species Act. The Biological Opinion concluded that fisheries for pollock, Pacific cod, and Atka mackerel jeopardize the recovery of Steller Sea lions and adversely modify their critical habitat due to competition for prey and modification of their prey field. To mitigate this situation, the Biological Opinion included a set of sea lion protective measures (termed the Reasonable and Prudent Alternative, RPA), which included closure areas and a long-term experimental monitoring program. A one-year phase-in of these regulations is required by Senator Steven's rider to the recent appropriations bill (P.L. 106-554). The closure areas, designed to protect a minimum level of critical habitat, would go into effect on June 10, 2001, subject to modifications by the Council at its April meeting.

A Committee has been established to respond to the RPA and experimental design in a technical, operational, and practical sense to try to make it more functional. In the short term (by April), the Committee has been tasked with development of open/closed area recommendations for the latter half of 2001. The longer term task of the Committee is to provide an alternative RPA for analysis (by June), and make recommendations to the Council on the analysis.

Meeting - An informal organizational meeting of the RPA Committee was held on February 10. Chairman Larry Cotter opened up the meeting with the background, and laid out the ground rules for civilized and productive discussions. There will be public input allowed at all meetings. Travel will be on your own dime. A mailing list and email list will be distributed (see attached list). NMFS noted that any communications (including emails) regarding the RPA committee will be part of the official public record. A schedule of meetings was agreed upon as shown in the adjacent box. The Committee discussed information needs for the February 20 meeting. The information requests included:

RPA Committee Meeting Schedule February 20 (Juneau) March 6-8 (Seattle) March 26-28 (Anchorage) April 3-5 (Anchorage if needed)
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1. What fisheries occur in critical habitat (CH), especially in the latter half of the year?
-catch data (all fisheries) by season, gear type, and vessel size, in the smallest spatial scale possible.
2. How much CH needs to be open or closed to meet the criteria?
- sea lion counts by rookeries and haulouts; preferably GIS based and accessible.
3. What is the fish distribution based on survey data?

- use NMFS surveys to get information on where fish could be caught in summer months; some interest in getting salmon data as well.

Further discussions about information of interest included locations of directed fishery catch versus locations of bycatch, removal rates by gear type, and a side by side comparison of RPA measures from 1999-2001.

Doug DeMaster provided some guidance on the CH closure criteria. He noted that 56% of CH was protected with the closures of the Aleutian Islands and Bogoslof, and the 10 nmi closures around rookeries and haulouts. Doug also noted that the Committee may consider modification of closure areas. For example, one option could be to close haulouts only during the months when the animals are using these sites. Committee members questioned whether or not the 50% rule would exist for 2002. Doug replied that it is a safe approach, but could be modified if the information indicates that changes would provide adequate protection for sea lions.

The meeting ended approximately at 1 pm.

**Minutes of the RPA Committee Meeting,
February 20, 2001**

Members Present:

*Larry Cotter (chair)
Dave Benson
Shane Capron
Doug DeMaster
John Gauvin
Terry Leitzell*

*Alan Parks
Beth Stewart
Jack Tagart
John Winther
Sue Hills
Wayne Donaldson*

*Bob Small
Fred Robison
Gerald Leape
Jerry Bongon
John Iani
Matt Moir*

Members not present: *Tony DeGange, David Cline, Steve Drage.*

Staff present: *Dave Witherell (coordinator), Chris Oliver (NPFMC), Cathy Coon (NPFMC), Tamra Faris (NFMS), Lauren Smoker (NOAA GC), Kristin Mabry (ADF&G), Steve Lewis (NMFS), Ben Muse (NMFS), Sue Salvesson (NMFS).*

Background - This Committee was established to respond to the Steller sea lion Reasonable and Prudent Alternative (RPA) and experimental design in a technical, operational, and practical sense to try to make it more functional. In the short term (by April), the Committee has been tasked with development of open/closed area recommendations for the latter half of 2001. The longer term task of the Committee is to provide an alternative RPA for analysis (by June), and make recommendations to the SSC, AP, and Council on the analysis.

Meeting - The second meeting of the RPA Committee was held on February 20 in Juneau at the Federal Building, beginning at 10 am. Many participated via teleconference. Committee members introduced themselves and stated their background, specific interests and goals. The draft minutes from the February 10 meeting were approved (Stewart/Leitzell).

Lauren Smoker (NOAA-GC) provided an overview of standards to be followed under the Endangered Species Act. Terry Leitzell asked about how much flexibility there was in the determinations, noting language such as "likely". Tamra Faris and Chris Oliver noted that both NMFS and NPFMC were exploring the possibility for contracting out an independent legal review of the underpinnings relative to ESA. Lauren agreed to provide a summary reference sheet to assist with future committee discussions. There was also an interest in having a similar cheat sheet summary for the biological standards, if any, that could help guide committee discussion on RPA measures. Doug DeMaster agreed to draft this for the next committee meeting.

Tamra Faris discussed the NEPA requirements for the analysis. In the February 1 letter from Jim Balsiger, NMFS determined that implementation of an RPA through a plan or regulatory amendment was a major federal action because it was controversial and would likely have significant impacts on the human environment. Hence, an Environmental Impact Statement (EIS) was required for this, rather than just an Environmental Assessment (EA). Tamra noted that while it was possible to complete the EIS and implement regulations for the January 2002 fisheries, it was going to be difficult. To meet the schedule, the analysis would need to be completed by mid August. The Committee will need to recommend its final RPA alternative for 2002 fisheries by the June Council meeting. For the second half of 2001 (after June 11), the Committee will need to make final recommendations by the April Council meeting.

Doug DeMaster provided a quick chronology of events leading up to the November 30, 2000 Biological Opinion (BiOp) determinations. The December 1998 RPA was a result of a jeopardy finding for the pollock fisheries. The Court agreed with the jeopardy finding, but couldn't determine if the RPA was reasonable because the RPA was not adequately explained. The Agency responded with the Revised Final Reasonable and Prudent Alternatives (RFRPA), but these were never argued in court, and were never implemented due to the Court injunction. The RFRPAs did not include measures for the Pacific cod fisheries. There was no agreement among committee members as to whether the 1998 RPA was a viable alternative.

In response to a question about what is the rebuilding target for Steller sea lions, Doug noted that if the population was stable at 40,000 animals, NMFS probably would not consider them to be endangered, only depleted. The endangered listing is due to the observed decline. There was a followup question about what level of interaction would cause a jeopardy finding, i.e., what is the 'jeopardy bar'? Doug responded that this was not straightforward, but felt that using MMPA criteria of 1% of the population provided some guidance. In other words, jeopardy was avoided if no more than 400 sea lions were affected relative to their survival and reproduction.

Doug also provided a perspective on development of the monitoring program (the experimental design). He said that in designing the program, they wanted to separate the areas based on sea lion population trends. Sea lions have been stable in the Bering Sea in recent years, but are declining in the Aleutians and Gulf of Alaska. These areas do not correspond directly to the FMP areas. NMFS identified that at least 50% of the critical habitat (CH) should be closed to fishing for prey species. In establishing the open and closed areas (red and green areas) Doug noted that these areas needed to be big enough to account for sea lion movement, and also needed to include some information on the distribution of groundfish. On average, 66% of the critical habitat was closed to fishing for pollock, Pacific cod, and Atka mackerel under the RPA. It was agreed that for the 2001 changes to open and closed areas, that smaller zones could be considered.

The Committee discussed data needs for short term closure evaluation and for the longer term RPA design. Garry Leape requested that 1999 economic data be provided, so that measures could be evaluated against the appropriations language that allows opening critical habitat in 2001 to insure income from these fisheries for small boats and Alaskan on-shore processors that is no less than in 1999. Steve Lewis informed the Committee that NMFS was working towards an interactive map to generate area estimates for open and closed areas. Maps are downloadable from the NMFS web site (www.fakr.noaa.gov/arcims). Vessel size category breakouts were agreed upon for initial analysis: < 60' (with subcategory of <55'), 60-125', and >125'. The Committee would also like to have the platform of opportunity data examined to examine when and where sea lions have been observed. The Committee is also interested in seeing sea lion distribution from existing telemetry data. It would be useful to examine the distribution frequency of animals from the nearest haulout or rookery, and nearest landfall. Bob Small volunteered to have ADF&G telemetry data analyzed in the same format. Sea lion non-pup count data are now available on the NMFS web site. They are working on getting the pup data on this site as well. The Committee expressed interest in seeing animal counts by season or month, where available. The Committee also requested that information on orca distribution be made available. Doug DeMaster agreed to fulfill these information requests. Galen Tromble reported on his progress to develop a new comprehensive catch database that accounts for every fish caught on a vessel specific basis, and avoids double counting. It uses 1995-1999 information including observer data (100% observed vessels), fish ticket data (shoreside catcher vessels), and weekly production reports (30% observed c/ps). The database will be ready for analysis of 2002 RPA, but not for Committee discussions of 2001 actions.

The meeting ended at approximately 2 pm.

**Minutes of the RPA Committee Meeting,
March 6-7, 2001**

Members Present:

*Larry Cotter (chair)
Dave Benson
Shane Capron
Doug DeMaster
John Gauvin
Terry Leitzell
Alan Parks*

*Beth Stewart
Jack Tagart
John Winther
Sue Hills
Wayne Donaldson
Bob Small
Fred Robison*

*Gerald Leape
Jerry Bongon
John Iani
Matt Moir
Dave Cline
Steve Drage*

Staff present: *Dave Witherell (coordinator), Cathy Coon (NPFMC), Tamra Faris (NFMS), Lauren Smoker (NOAA GC), Kristin Mabry (ADF&G), and others attending from NMFS AFCS and NMML.*

Background - This Committee was established to respond to the Steller sea lion (SSL) Reasonable and Prudent Alternative (RPA) and experimental design in a technical, operational, and practical sense to try to make it more functional. In the short term (by April), the Committee has been tasked with development of open/closed area recommendations for the latter half of 2001. The longer term task of the Committee is to provide an alternative RPA for analysis (by June), and make recommendations to the SSC, AP, and Council on the analysis.

Meeting - The third meeting of the RPA Committee was held on March 6-7 in Seattle at the Alaska Fisheries Science Center, beginning at 8:30 am. Larry Cotter briefly reviewed the tasks of the committee, the draft agenda, and format of committee meetings. Committee members introduced themselves, and the draft minutes from the February 20 meeting were reviewed and revisions were discussed.

Bob Small provided a summary of the letter from the State's sea lion restoration team. The Team provided recommendations in four areas: no-transit zones, no-fishing zones, critical foraging areas, and experimental design. Regarding no-transit zones, the team recommended a 3,000 ft no transit zones around all major haulouts when these sites are occupied. No-fishing zones should be ecologically based, and that size be based on depth and distance as determined from telemetry studies. Critical habitat designations should be revisited and perhaps revised based on updated information. Lastly, the team recommends that any experiment to understand the effects of fishing should not be implemented until a sound design has been developed. They provided some guidance on development of such a design.

Larry Cotter led a discussion of goals and objectives for the committee. The Committee tentatively identified the following as its Goal: **Develop an RPA that meets the mandates of the ESA, MSFCMA, and other applicable laws, while sustaining viable fisheries in Alaska.** The Committee considered adding a phrase ("and a rich, diverse ecosystem") to the end of its goal, but consensus could not be reached (addition of the phrase is still being discussed). The Committee spent some time developing objectives for research, sea lion protection, and sustainable fisheries. Although numerous individual objectives were identified, they distilled into the following:

- Remove jeopardy and adverse modification.
- Develop a sound experimental design for monitoring.
- Minimize social and economic impacts.

- Minimize bycatch of PSC and other groundfish.
- Promote safety at sea.

Doug DeMaster (NMFS) reviewed the summary information 'cheat sheets', as requested by the committee, on ESA definitions and guidance for SSL protection. An ESA summary sheet, prepared by Lauren Smoker (NOAA GC), provided ESA definitions for jeopardy, adverse modification, and reasonable and prudent alternative, as well as summary of agency requirements for determination and RPA development. Shane Capron reviewed the management actions contained in the RPA relative to the three major issues (protection of critical habitat and protection from further decline, protection from jeopardy, and monitoring). Doug reviewed the guidance form the BiOp relative to developing an acceptable RPA and experimental design. **The two primary criteria for closure areas were: 1) at least 50% of CH should be closed to fishing for pollock, cod, and mackerel, and 2) that the closures should protect at least 50% of the non-pup population and 75% of the areas where pups are born.** Doug noted that we may want to use this guidance for 2001 regulations, but he thought there was some flexibility here. He further noted that closures around rookeries and haulouts were probably more important than closures in the special foraging areas. Doug calculated that if closures for the second half of 2001 included all the CH in the Aleutians, Area 518, and rookeries and haulouts east of 170 degrees out to 10 nm, then 56% of CH would be closed (including state waters). Doug clarified that the 50% guideline was developed such that expected declines of SSL in open areas would be offset by increases in the protection areas. Regarding the 'jeopardy bar', Doug noted that NMFS used the guideline of 0.6% mortality per year for pinnipeds in determining whether mortality incidental to commercial fishing was negligible under the ESA. This criteria for adverse impacts was not specified in the BiOp, but has been used for years as determination criteria for MMPA fishery impact evaluation.

Marilyn Dahlheim (NMFS) gave a report on killer whales summarizing three types of available information: platform of opportunity program data, survey data, and photographic identification studies. Copies of 4 scientific papers were distributed. Platform of Opportunity data showed that killer whales are sighted throughout Alaska waters, but because there is almost no effort associated with these data, they cannot be used for estimating abundance or trends. Dedicated cetacean surveys using line-transect methodology have been completed throughout Alaska. Areas covered included the waters near the Pribilof Islands, the Aleutian Islands, the Alaskan Peninsula, and the western Gulf of Alaska. During these surveys killer whales were sighted, however because duplicate sightings could not be ruled out, no population estimates were made. Identification of individual killer whales is possible due to characteristic fin shapes or scars or nicks on the fin or saddle. Photo-identification studies of killer whales have taken in Alaska since 1984, and several photographic catalogs depicting individual killer whales are available. Based on photo-identification research from Prince William Sound westward, a minimum count of killer whales includes 670 residents and 89 transients. A minimum total estimate for all North Pacific (California to Alaska) killer whales is 977 residents, 449 transients, and approximately 200 whales that have been termed the "offshore" type. There are genetic and behavioral differences between these whale types. Resident whales are found in large cohesive groups and they feed mainly on fish. Transient whales occur in small dynamic groups and feed primarily on marine mammals. The amount of prey taken on a daily basis by transient whales is currently unknown. However in captivity, killer whales consume 200-250 pounds per day, or about 3-5% of their body weight. Large-scale movements by transient killer whales have been documented (e.g., Alaska to California).

Beth Sinclair (NMFS) gave a report on sea lion scat studies, and handed out summary tables. This study is currently in review and will be submitted for publication in May 2001. Her study examined scat collections from 1990-1998, which included a total of 3,400 scats containing identifiable hard parts. Collections were made from 31 sites in the winter and 31 sites in the summer. The foundation for the statistical analysis in this study was prey "frequency of occurrence", which is the percentage of scats that have prey remains that

contain a particular species of prey. Frequency of occurrence values were reduced to factors accounting for most of the variance in the diet data by principle component analysis. Cluster analysis indicated that there is regional specificity of prey eaten, with regional clusters identified as follows:

Region 4 (west of Bogoslof)	prey: mackerel and cephalopods
Region 1 (Kodiak and AK pen.)	prey: pollock, salmon, flounder
Region 3 (Eastern AI to Cold Bay)	prey: herring, sandlance, cod, irish lord
Region 2 (Alaska pen to Unimak Island)	prey: wide variety of prey

Beth noted that it was important to recognize that prey species absent from the clusters were not necessarily absent from the diet in that region. For example, salmon are preyed upon in all four regions, but the cluster analysis resulted in salmon only being used to differentiate diet by area in Region 1. Beth added that there was overlap in prey between regions 1 and 3 in the area including the Alaska peninsula to Unimak Island. Analysis of prey diversity among the areas in winter and summer indicated that SSL were eating more diverse prey in the winter months, except in region 2. Her overall conclusions were that the regional differences suggest area-specific foraging strategies, and that SSL were targeting near shore prey when the prey was densely aggregated.

Doug DeMaster gave a brief overview of SSL biology and status. The current status is summarized in the stock assessment reports available on the web, together with information on pup counts, non-pup counts, diet studies, telemetry studies, etc. The current US western stock of SSL is estimated to be 34,600 animals. The average rate of decline is 5.1% from 1991-2000. Declines are in the areas of Prince William Sound (9%), central GOA (8%), and western AI (8%), whereas the other areas are stable. The two problems facing SSL recovery are that the current birth rates are too low, and that survival from pup to age 4 is low. Currently, the average pupping rate per female is 55-70%, but one would expect 80-90% based on studies of California sea lions. Similarly, the average death rate for non-pups is 20% per year, whereas only a 10% rate would be expected for a SSL population that was increasing at 5% per year.

Doug also reviewed some basic SSL biology. Females mature between ages 3-6. There is a one year gestation period, such that both birth and mating occurs in June. Pups generally leave the mother after 11 months, but will stay longer if another pup isn't born. There is no direct association of the males and female adults outside of the mating period, however they often share haulouts. Telemetry data have shown that pups < 1 year old typically dive 10-25 meters, while yearlings typically dive 10-50 meters. Bob Small provided a table with information on the 88 satellite tags deployed on SSLs by ADF&G. A more in-depth report on the results of telemetry studies will be provided at the next meeting.

Kristin Mabry (ADF&G) and Cathy Coon (NPFMC) reported on their progress with data analysis using geographic information systems (GIS). They examined fish ticket data for the period June through December 1995-99. They examined the data by target fishery (pollock, cod, mackerel, flatfish, rockfish) and also retained bycatch of non-target pollock, cod, and mackerel. The information was further split by gear type (trawl pot/jig, longline) and by vessel size category (<55', 55-60', 60-125', and >125'). There was disagreement expressed by the committee about the necessity for a <55' category. There was also discussion about using observer data (NORPAC) to get information from catcher-processors, because the fish ticket database only includes catcher vessels. The committee agreed that this data analysis would be especially important for the mackerel fleet, which is comprised of all c/ps. The committee also felt that it would be necessary to split out the jig gear from the pot/jig category. Regarding SSL information, count data from the 151 major sites (including 37 rookeries) have been mapped using GIS, and the full database will soon be available. The committee suggested that the SSL count data be broken out into regions identified from foraging studies, with the AI further split into smaller regions. It was also suggested that the best counts came from arial surveys done in June and July. Counts could be split into 4 categories (0-75, 75-200, 200-

1000, and > 1000 animals) to help determine significance. Historical versus current significance could be determined if the data were lumped into 5 year blocks. The committee thanked Kristin and Cathy for their extraordinary efforts to prepare the information.

Chris Wilson, Neal Williamson, and Eric Brown (NMFS) briefed the committee on the echo-integration and bottom trawl surveys being conducted this winter on forage abundance and distribution. In the Shumagin Islands hydroacoustic survey from 12-19 February, test trawls found a high percentage of spent pollock, indicating that spawning was earlier than normal this year. The hydroacoustic survey in the southeast Bering Sea found pollock to be concentrated further east than expected, with pollock schools extending beyond the eastern survey boundary in Bristol Bay.

Sue Hills provided a quick overview of SSL research being done by Kate Wynne around Kodiak Island. Kate has been studying 12 SSL sites (11 haulouts, one rookery at Marmot) around Kodiak, including counts, scat collection, and local prey abundance. Preliminary results after one year showed that counts can be variable over seasons, and some haulouts only have sea lions present for a couple of months. Arrowtooth flounder and flathead sole together comprised of over 60% of the trawl survey catches. Regarding scat analysis, a total of 13 species had over a 10% occurrence in scats, indicating that many species are eaten by SSLs. Arrowtooth, cod, pollock, sandlance, salmon occurred at the highest frequencies. A more complete report may be given at the next meeting.

The Committee discussed data requests for the next meeting.

- Separate out jig from pot/jig combo - do not worry about vessel size categories for jig gear.
- Add Catcher Processor data (for pollock, cod, atka mackerel) from norpac to GIS format.
- Add bathymetry - both NOAA charts and polygons.
- Stick with the basic level of stat area and then sum over the 6 regional areas
- SSL Count distributions - examine on a seasonal basis, by food habits regions, in regulated rookeries and haulouts only. Identify significant areas through binning 0-75, 75-200, 200-1000, 1000+ . Lump data into 5 year blocks (>1979).
- Analysis of telemetry data, distance from site and land, diving depth.
- Add PSC closure areas as GIS overlay.
- Histogram for catch by month and gear - by ADF&G stat area INDUSTRY will provide, especially important for post AFA years.
- Economic data for 1999 for small vessels and shoreside processors relative to appropriations bill.
- Salmon and herring - total removals by stat area (for future meeting).
- Total removals of everything by stat area for cumulative impacts analysis (for future meeting).
- Fish ticket data and observer data by stat area for 2000 (for future meeting).

Topics and agenda for the next committee meeting were discussed. Agenda items will include a presentation by Kate Wynne on the Kodiak SSL studies, staff reports on data requests, setting the schedule for remaining meetings, and making final recommendations for the second half 2001 fisheries. The meeting will be held at the Hilton Hotel in Anchorage and begin at 1 pm on Monday March 26 and will continue through March 30. until final recommendations are developed. There will not be another committee meeting prior to the Councils April meeting.

The meeting ended at approximately 5 pm on March 7.

**Final DRAFT Minutes of the RPA Committee Meeting,
March 26-29, 2001**

Members Present:

Larry Cotter (chair)
Dave Benson
Shane Capron
Doug DeMaster
John Gauvin
Terry Leitzell
Alan Parks

Beth Stewart
Jack Tagart
John Winther
Sue Hills
Wayne Donaldson
Bob Small
Fred Robison

Gerald Leape
Jerry Bongen
John Iani
Matt Moir
Dave Cline
Steve Drage
Tony DeGange

Staff present: *Dave Witherell (coordinator), Elaine Dinneford (NPFMC), Steve Lewis (NFMS), Mike Payne (NMFS), Sue Salvesson (NMFS), Lauren Smoker (NOAA GC), Kristin Mabry (ADF&G).*

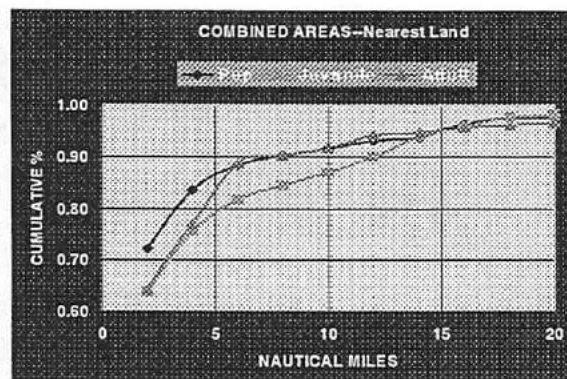
Background - This Committee was established to respond to the Steller sea lion (SSL) Reasonable and Prudent Alternative (RPA) and experimental design in a technical, operational, and practical sense to try to make it more functional. In the short term (by April), the Committee has been tasked with development of open/closed area recommendations for the latter half of 2001. The longer term task of the Committee is to provide an alternative RPA for analysis (by June), and make recommendations to the SSC, AP, and Council on the analysis.

Meeting - The fourth meeting of the RPA Committee was held on March 26-29 in Anchorage at the Hilton Hotel, beginning at 10 am. Larry Cotter briefly reviewed the tasks of the committee, the draft agenda, and format of committee meetings. The March 6 minutes were provisionally adopted [motion: Stewart/Winther], with a change noted for the criteria, which should be protect *at least* 50% of CH and non-pups. Also, it was noted that state waters were included in the protection calculations. Other recommended changes were submitted via email and distributed. Dave Cline submitted two publications of the World Wildlife Fund for the record. Lauren Smoker (NOAA-GC) provided a 'cheat sheet' on MSFCMA guidelines and national standards. and Public Law 106-554.

Kate Wynne (UAF) provided an overview of SSL research being done around Kodiak Island. Kate has been studying 12 SSL sites (11 haulouts, one rookery at Marmot) around Kodiak, including counts, scat collection, and local prey abundance. Preliminary results after one year showed that counts can be variable over seasons, with SSL moving around and dispersing in the fall months. Over 300 scats have been examined. A total of 13 species had over a 10% occurrence in scats, indicating that many species are eaten by SSLs. So far, scat data have been useful in providing frequency of occurrence of prey in the diet, but have not been able to distinguish overall volume of prey consumed. There are also regional and seasonal differences among the sites. Of interest, no capelin or eulachon are found in the scats even though they are taken in the survey. Copies of her presentation were distributed.

Bob Small reviewed the state and federal satellite telemetry data, and distributed a set of summary figures. He explained how the satellite data are collected. The instruments can only transmit when dry (animal is at surface or on land), and transmissions can potentially be received only when satellites are overhead. The total number of satellite tagged animals analyzed included 36 pups, 31 juveniles, and 25 adults. Bob analyzed the at-sea location data in two ways: distance to nearest landmass and distance to capture site. The

results indicated that the large majority of at-sea locations occurred close to shore (<10 nm) across regions and seasons, and that there was low fidelity to the capture site. There are several important caveats to consider with these telemetry location data: (1) due to a larger proportion of time spent at the surface nearshore, the probability of obtaining at-sea locations near haulouts and rookeries is likely higher than when further offshore when sea lions are diving to depth in deeper waters; (2) at-sea locations do not directly indicate where sea lions are foraging; (3) the large majority of pups, and perhaps most juveniles, were likely still nursing and thus not foraging independently for prey; and (4) telemetry data are lacking for subadults and females without pups. Nonetheless, both Bob and Doug agreed that telemetry data were considerably more reliable than platform of opportunity data for determining habitat use by SSL. All agreed that the designation of critical habitat should be re-examined in the future as new information becomes available.



Kristin Mabry reviewed the GIS maps that she, Cathy Coon, and Steve Lewis prepared. Kristin showed an example of how the maps are generated from the data, and how the different data sets (coverages) are overlaid. Handouts and posters of fishery maps and survey maps were distributed, showing locations of RPA areas, fishery catch, vessel accidents, sea lion counts, rookery and haulout sites, and metapopulation trend information.

The Committee revisited its draft goals and objectives based on the previous meeting. The Committee adopted its revised goal as shown in the adjacent box. There was some discussion and concerns raised about adding the term biodiversity into the goal statement, as some thought it was beyond the scope of the committee, and others thought we should maintain a broad vision for our goal. The Committee agreed to the objectives as distilled in the previous minutes, and shown in the adjacent box.

Goals and objectives of the RPA Committee.

Goal: Develop an RPA that meets the mandates of the ESA, MSFCMA, and other applicable laws, while conserving marine biodiversity and sustaining viability of the diverse fishing communities dependent upon the Alaska fishery resources.

Objectives:

- Remove jeopardy and adverse modification.
- Develop a sound experimental design for monitoring.
- Minimize social and economic impacts.
- Minimize bycatch of PSC and other groundfish.
- Promote safety at sea.

Gerry Leape provided the committee with a proposed principles and guidelines for RPAs to avoid jeopardy and adverse modification. It included elements of reduced catch levels at a global scale, dispersion of fisheries in time and space on a regional scale outside critical habitat, reduced catch rates on a local scale within critical habitat, and elimination of prey competition in nearshore areas. To accomplish this, Gerry's proposal was to distribute catch over time and area, establish trawl exclusion zones, and lower TACs. The Committee discussed these principles, and decided that this should be an issue for discussion at a later meeting.

Public testimony was taken and proposals were voiced. These proposals were put on paper, distributed, and discussed. After some debate, the proposals were refined. The Committee agreed that none of the proposals adopted for 2001 would be binding for consideration of 2002 RPA measures – it is a clean slate. A summary of the discussion for each proposal, including rationale, is provided below.

1. *All Areas: Low and Slow Approach (Leape, Parks, Cline)* - This proposal was based on the principles and guidelines proposed by Gerry. Spatial dispersion would occur through a 'zonal approach', whereby small jig and longline vessels could fish within 10 nm, all fixed gear vessels could fish within 20 nm, and trawl vessels could only fish outside of 20 nm. Allen noted that AMCC's version of the proposal would allow pelagic trawling within rookery and haulout areas during months when there were no sea lions observed. Rationale behind the zonal approach was that fixed gear, especially small vessels, had lower catch rates and hence reduced impacts to the prey field than trawl gear. Temporal dispersion would occur by allocating the Pacific cod TAC for the remainder of 2001 into two equal seasons. The proposal also request that pollock fishing in the AI remain closed. A number of other management measures (e.g., daily catch limits, reduce MRBs, LLP pot endorsement for trawl vessels, PSC for octopus, VMS and observer requirements) were proposed to reduce catch rates and competition. The Committee discussed these issues, and determined that many of the recommendations would not be able to be implemented for 2001. It was recommended that NMFS provide some guidance on management and enforcement aspects of this proposal for the next committee meeting.

2. *Kodiak (Moir, Drage, Bongon)* - Representatives from the Kodiak area wanted to allow some fishing in nearshore areas, and make allowances for small fixed gear vessels for safety reasons. They felt it was imperative to keep product coming in so the plants could continue to operate and the community to survive. They also wanted to make sure the Chiniak and Barnabus experiment was able to continue.

3. *Sand Point (Stewart)* - Beth was concerned about allowing access by small vessels, while protecting sea lions and avoiding potentially large salmon bycatch in summer months. This balance was achieved by proposing all CH be closed out to 10 nm, with exemptions for small fixed gear vessels, and changing the season dates to catch cod when they are more available and when salmon bycatch is lower.

4. *Bering Sea (Leitzell, Benson)* - Terry wanted to protect SLL inside the most important areas out to 10nm, and have fisheries in the remainder of the Bering Sea foraging areas. He noted that the AFA coops have allowed for a much more temporal dispersion of catches. He also noted that sea lions in this area do not appear to rely on pollock or cod and that sea lion populations in areas 7 and 8 are increasing. Dave Benson wanted to allow fishing access in the Pribilof haulout areas that apparently no longer have sea lions on them. There was also interest in allowing small vessels to fish with fixed gear near to Dutch Harbor for safety reasons.

5. *Aleutian Islands (Gauvin, Winther)* - John Gauvin provided a novel approach for temporal and spatial dispersion of the fleet by introducing the concept of 'platooning', whereby the fleet would be allocated quota and start dates in different areas. In addition, he wanted to keep the current closure areas, seasons, and quotas specified in regulations in place. He did request that NMFS address the inside/outside quota problem ASAP (trawl fisheries are not allowed inside CH until outside mackerel TACs have been taken). John Winther argued that longline fisheries should be allowed within 20 nm in the AI because they likely had minimal impacts to sea lions as the fleet was dispersed and removal rates were low. In addition, a season opening change would allow for higher fish quality and lower halibut bycatch rates.

6. *All Areas (DeMaster)* - NMFS proposed a straightforward approach that would establish 10 nm closures around rookeries and haulouts with 20 nm closures around rookeries with >10% declines, and close Area 9 and Seguam to all fishing for pollock, cod, and Atka mackerel. The committee agreed that this is a sensible approach to start with, and is subsequently used as a base, for the final proposal.

The committee agreed that the measure of these proposals for SSL protection should include, but not be limited to, the following criteria:

- at least 50% of CH should be closed to fishing for pollock, cod, and mackerel;
- closures should protect at least 50% of the non-pup population and at least 75% of pups;
- measures should be designed to remove jeopardy (assumes fishery causes decline);
- a monitoring program must be included (2002 and beyond).

A final set of measures (attached) was recommended by consensus of the committee, with one member (Leape) objecting and one member (Cline) undecided. These measures are in addition to the regulatory measures already in place for the first half of 2001 (3 nm no transit zones, 10/20 nm rookery trawl closures, etc.), except as modified by the Committees recommendation. Gerry remained concerned about the emergency rule provisions for small vessels within 3 nm, the telemetry data (sample sizes, interpretation), and whether or not this package would trigger reinitiation of consultation. He stated that reluctantly, he was unable to support the package because in his opinion it failed to avoid jeopardy and adverse modification. He felt that 20 nm trawl closures were needed. Nevertheless, he was supportive of the committee process and agreed that the committee could send the recommendation forward to the Council. Overall, the committee felt that they had made significant progress with the 2001 recommendation, and that a 2002 RPA recommendation could be agreed upon at upcoming meetings.

Most committee members felt that their recommended suite of measures for the remainder of 2001 is more conservative than the BiOp RPA. The table below compares these two sets of measures relative to criteria set forth in the BiOp. More animals are protected because the committee adopted only one "green area" off Kodiak in its entirety. The critical habitat amount was lower due to opening of the foraging areas in Shelikof and the Bering Sea. However, the new telemetry data clearly showed that the large majority of at-sea locations are in the nearshore areas inside 10 nm. Assumptions built into the calculations include: 1) a 50% adjustment factor was applied to areas 11 and 12 as the mackerel and cod trawl fishery are allowed only in one or the other area, and limited amount of cod longline fishing was allowed in these areas, 2) full protection was assumed for areas that had closures out to 10 nm based on new telemetry data, and 3) the exceptions for fishing in CH with small boats was considered insignificant to reduce the calculated protection. Calculations are based on the total CH (151 sites plus foraging areas) and total population of pups and non-pups from the most recent surveys.

Summary of RPA Committee recommended protection measures relative to Biological Opinion criteria.		
Criteria	Measures from BiOp RPA	Measures Committee Recommended on 3/29
Protect 50% of Critical Habitat	66%	57%
Protect 50% of non-pups	56%	80%
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The committee discussed its schedule, task and data needs for the next few meeting. Meetings have been scheduled as shown in the adjacent box. No teleconferencing facilities will be available at these meetings. NMFS and ADF&G will be preparing a white paper on the use, interpretation, and summary of telemetry information, and if time permits, a summary of data used to create protection zones in the past. Agency staff will also be preparing a list of information they think should be made available for Committee deliberations. A subcommittee may be established at the next meeting to coordinate with the Alaska SSL Restoration Team in developing an appropriate experimental design. A last recommendation of the Committee was that NMFS should coordinate efforts with the State of Alaska, because telemetry data have shown the importance of nearshore areas for sea lions.

RPA Committee Meeting Schedule.
April 17-19 (Anchorage)
May 9-11 (Juneau)
May 21-23 (24) (Seattle)

The meeting ended at approximately 11 am on March 29.

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Revised DRAFT 4/5
Recommendation of the RPA Committee for 2001 Fisheries

Global: The measures contained in this document are recommended to be implemented for the second half of 2001, in addition to those rules implemented by the January 22, 2001, emergency rule (66 FR 7276), and the March 29 modification (66 FR 17083), which allows for fishing within haulout and rookery areas for vessels using jig gear off Alaska, and on vessels less than 60' using fixed gear in the BSAI. In summary, the emergency rule measures (excerpted from the FR notice) include:

1. No transit zones within 3 nautical miles (nm) of 37 rookery sites;
2. Closure within 10 or 20 nm of 37 rookeries to all trawling year-round;
3. Closure to pollock fishing within 10 or 20 nm of 75 haulouts, seasonally or year-round;
4. In the Bering Sea pollock fishery: (a) four seasons with harvest limits within CH; and (b) two seasons (40:60 percent allocation) outside critical habitat; *[Note that the committee's proposal would have only 2 seasons, and not allocate catch inside/outside critical habitat]*
5. Continuation of Bering Sea pollock fishery cooperatives established under AFA;
6. Gulf of Alaska pollock fishery distributed over four seasons (30:15:30:25 percent allocation);
7. Closure of the Aleutian Islands to pollock fishing;
8. Atka mackerel fishery to include VMS, two equal seasons, and restrictions on harvests in CH;
9. Closure of the groundfish fishery to federally permitted vessels within 3 nm of more than 75 important haulout sites identified under established criteria;
10. Two fishing seasons for BSAI and GOA Pacific cod, January 1 to June 10 (60 percent of the total allowable catch (TAC)) and June 11 to December 31 (40 percent of the TAC);
11. Reduction GOA pollock TAC by 10 percent; and
12. Bering Sea pollock harvests in the Steller sea lion conservation area (SCA) are limited to no more than the metric ton amount authorized in the final 2000 harvest specifications. *[Note that the committee's proposal would not limit the catch amount in the SCA]*

Note that some committee members are in dispute regarding the language in italics under items 4 and 12.

Gulf of Alaska (Areas 1, 2, 3, 4, 5, 6, 10, 11):

For all areas, Pacific cod fisheries would open September 1. Rationale: salmon bycatch is highest and flesh quality lowest in the summer.

Area 1 (Prince William Sound)

Sea lion abundance trend - This area is declining faster than average (-10% per year).

Existing RPA rule - Green area. Open to restricted fishing outside of 3 nautical miles (nm).

Recommendation - Prohibit fishing for pollock, Pacific cod, and Atka mackerel with all gear types within 20 nm of listed rookeries and haulouts.

Rationale - Sea lions in this area are in the steepest decline of any region. Summer fisheries in this area target salmon. Cod catches in this area are minimal and likely from IFQ halibut bycatch.

Area 2 (North Gulf Coast)

Sea lion abundance trend - This area is declining faster than average (-7% per year).

Existing RPA rule - Red area. Closed to pollock, cod, and mackerel fishing outside of 3 nm.

Recommendation - Prohibit fishing for pollock, Pacific cod, and Atka mackerel with all gear types in Area 631 and within 20 nm of listed rookeries and haulouts except for Chiniak and Long Island that would be closed only out to 10 nm from October 1- December 31.

Exception: Vessels < 60' fishing with fixed gear would be allowed to fish within haulout areas (3-20 nm).

Rationale - Sea lion decline in this region is high, so large closures were adopted. The exceptions were adopted because telemetry data suggests that sea lions are primarily located within 3 nm of land, and almost always within 10 nm.

Area 3 (Kodiak Island)

Sea lion abundance trend - This area is declining at the population average (-4% per year).

Existing RPA rule - Green area. Open to restricted fishing outside of 3 nm.

Recommendation - No change. Maintain the BiOp RPA that allows fishing for pollock, Pacific cod, and Atka mackerel with all gear types in critical habitat and the Shelikof foraging area, except within 20 nm of listed rookeries and 3 nm of listed haulouts.

Rationale - These are critically important fishing areas for small vessels using trawl gear for pollock and Pacific cod, hailing from the fishing community of Kodiak. Scat collections in this area during the fall of 1999 showed a highest frequency of occurrence of sandlance, salmon, and arrowtooth flounder (Wynne analysis).

Area 4 (Chignik)

Sea lion abundance trend - This area is declining (-6% per year).

Existing RPA rule - Red area. Closed to pollock, cod, and mackerel fishing outside of 3 nm.

Recommendation - No change. Maintain the BiOp RPA that prohibits fishing for pollock, Pacific cod, and Atka mackerel with all gear types in critical habitat within 20 nm of listed rookeries and haulouts.

Rationale - Sea lion decline in this area is higher than average.

Areas 5 and 6 (False Pass, King Cove, Sand Point)

Sea lion abundance trend - This area is declining only slightly (-1% per year for each area).

Existing RPA rule - Area 5 is a green area, Area 6 is a red area.

Recommendation - Prohibit fishing for pollock, Pacific cod, and Atka mackerel with all gear types within 10 nm of listed rookeries and haulouts.

Exception: Vessels < 60' fishing with fixed gear would be allowed to fish within haulout and rookery areas (3-20 nm).

Rationale - The sea lion population here is relatively stable. Telemetry data suggests that sea lions are primarily located within 3 nm of land, and almost always within 10 nm. SSL prey in this area is primarily herring, sandlance, cod, and irish lords (Sinclair analysis)

Areas 10 and 11 (Gulf side of Unalaska)

Sea lion abundance trend - This area is declining (-2% per year in area 10, -3% in area 11).

Existing RPA rule - Both are red areas. Closed to pollock, cod, and mackerel fishing outside 3nm.

Recommendation - Prohibit fishing for pollock, Pacific cod, and Atka mackerel with all gear types in critical habitat within 20 nm of listed rookeries and haulouts.

Rationale - This area is not a critical fishing area for cod and pollock fishing in the second half of the year.

Bering Sea (Areas 7, 8, 9):

*For all areas, seasons would open as follows:
June 11 - All CDQ fisheries, pollock and cod
trawl, and jig; August 15 - longline cod;
September 1 - Pacific cod pot gear. Rationale: trawl
fishery not active in summer. Longline date coincides with
AI.*

Area 7 (Unimak)

Sea lion abundance trend - This area is increasing (+ 3% per year).

Existing RPA rule - Green area. Open to restricted fishing outside of 3 nm.

Recommendation - Prohibit fishing for pollock, Pacific cod, and Atka mackerel with all gear types within 10 nm of listed rookeries and haulouts, otherwise all of area 7 remains open.

Rationale - The sea lion populations is increasing in this area. Telemetry data suggests that sea lions are primarily found within 10 nm of land. Scat analysis indicates that SSL eat a a wide variety of prey in this area.

Area 8 (Dutch Harbor and northern Bering Sea)

Sea lion abundance trend - This area is increasing the fastest (+7% per year).

Existing RPA rule - Red area. Closed to pollock, cod, and mackerel fishing in entire Area 8.

Recommendation - Prohibit fishing for pollock, Pacific cod, and Atka mackerel with all gear types within 10 nm of listed rookeries and haulouts, otherwise all of area 8 remains open, except that: the four Pribilof haulouts would remain open outside 3 nm, and the five northern haulouts would be closed out to 20 nm.

Exception: Vessels < 60' fishing with fixed gear would be allowed to fish within haulout and rookery areas (3-20 nm).

Rationale - The sea lion population is increasing at about the maximum recovery rate. Sea lions have not been counted on the four Pribilof haulouts since 1961. The northern haulouts are not utilized by the cod or pollock fishery.

Area 9 (Bogoslof)

Sea lion abundance trend - This area is decreasing (-4% per year).

Existing RPA rule - Red area. Closed to pollock, cod, and mackerel fishing in entire Area 9.

Recommendation - No change. Maintain the BiOp RPA that prohibits fishing for pollock, Pacific cod, and Atka mackerel with all gear types in this entire area.

Rationale - Bogoslof has been closed for the past 10 years for pollock fishing. Mackerel and cod fishing occurs here.

Aleutian Islands (Areas 12, 13):

*For both areas, seasons would open as follows:
June 11 - All CDQ fisheries, cod trawl, pot, and
jig; August 15 - longline cod; September 1 -
mackerel. Rationale: Longline date coincides with BS.*

Area 12 (Eastern AI)

Sea lion abundance trend - This area is decreasing slightly (-2% per year).

Existing RPA rule - Green area. Open to restricted fishing outside of 3 nm, including Seaguam foraging area.

Area 13 (Central and Western AI)

Sea lion abundance trend - This area is decreasing faster than average (-7% per year).

Existing RPA rule - Red area. Closed to pollock, cod, and mackerel fishing outside of 3 nm.

Recommendation for areas 12 and 13 - based on target fisheries. Note that pollock fishing is already closed. In addition to the current closure areas (10 nm rookery and 3 nm haulouts), 20 nm closures would be implemented for pollock, mackerel, and Pacific cod using all gear types around the listed areas known as Agligadak (in area 12) and Buldir (in area 13).

Atka mackerel- West of 178° west longitude: keep open to mackerel fishing, but with closures as per NMFS Table 21 from regulations.
East of 178° west longitude: close to all mackerel fishing.

Pacific cod -
TRAWL: West of 178° west longitude: close to all Pacific cod fishing.
East of 178° west longitude: keep open to Pacific cod fishing, but with closures as per NMFS Table 21 from regulations. Segum foraging area would remain closed.

FIXED GEAR: In both areas 12 and 13, allow fixed gear vessels to fish within CH outside of 3 nm. Segum foraging area would remain closed.

Rationale - Steep declines of SSL at Agligadak (-16%) and Buldir (-13%) prompted 20 nm closure of these areas to all gear types. Other nearshore areas are also protected by current closure areas, because telemetry data suggests that sea lions are primarily located within 3 nm of land, and almost always within 10 nm. The division of the AI for cod and mackerel fisheries allows for reduced removals throughout the area. The AI fixed gear fisheries are thought to be dispersed and have lower removal rates than trawl gear.

Other Recommendations: The Committee recommends that the State of Alaska consider additional measures to protect sea lions in State waters. Telemetry data have shown the importance of nearshore areas for sea lions.

Statement of Task (Contract SSL-01)
for short-term BiOp Review/SSL Advisory Team
March 12, 2001

Background

The November 30, 2000 Biological Opinion (BiOp) prepared by National Marine Fisheries Service (NMFS) pursuant to the Endangered Species Act, resulted in a finding of jeopardy to endangered Steller sea lions (*Eumetopias jubatus*; SSL) relative to three fisheries under management jurisdiction of the North Pacific Fisheries Management Council (Council). A series of restrictive management measures (termed reasonable and prudent alternatives, or RPAs) were prescribed for implementation in 2001. Those measures are being implemented by NMFS under emergency rulemaking authority, and have severe economic and social costs associated with the pollock, Atka mackerel, and Pacific cod fisheries. However, there is considerable debate, including within the scientific community, regarding the findings of the BiOp, given the underlying information regarding food competition and other potential factors inhibiting SSL recovery.

The Council is contracting with the National Academy of Science to conduct a comprehensive, scientific review of the November 30, 2000 Biological Opinion (BiOp) and its underlying scientific information, assumptions, and hypothesis. This review is expected to take until late 2002 to be completed. In the meantime, the Council is faced with having to develop and analyze a wide range of potential management measures (reasonable and prudent alternatives, or RPAs) by October of 2001, for possible implementation in January of 2002. As such, the Council is seeking a separate, short-term independent review from a group of scientists with expertise in fisheries and marine mammal interactions.

This review is separate from the NAS review, is more limited in scope, and consists of two parts: (1) a review of the science associated with the BiOp and RPAs, by June of this year, with a focus on specified issue areas; and, (2) acting in an advisory capacity, between June and October, to the Council's RPA Committee and to a team of agency analysts to assist the Council process in arriving at a suite of RPAs that both protect SSL and allow fisheries to be appropriately prosecuted. The Council has intentionally sought expertise from a broad spectrum of international scientists, with no direct connection to our fisheries, with the goal of an objective review of the information at hand.

The following questions are illustrative of issues of concern: 1) Does the evidence of the degree of overlap and potential adverse interaction of the Atka mackerel, pollock, and Pacific cod fisheries indicate that they impede SSL population recovery, given current and past levels of prey base? 2) Have natural environmental phenomena (eg. climate regime shifts) affected the diet of SSLs? 3) What is the relationship between the quality and quantity of prey fish in the diet of SSLs, and does the evidence support the nutritional stress hypothesis, given past and current prey base? 4) What is the extent of the area that is critical for SSL foraging based on updated foraging and migration observations? 5) Do the extrapolated rates of SSL decline represent the best available science? 6) What is the impact of shark and killer whale predation on SSL populations? 7) What are the enduring effects of past intentional kills and current subsistence takes? and 8) What are other potential causes of the decline in SSLs or impediments to their recovery? 9) Given the available evidence, what is the marginal benefit of the suite of RPAs (original RPAs, those from the November 2000 BiOp, and those which are being developed).

Specific Task, Deliverables, and Timelines

Part 1: Foremost among the concerns listed above is the importance of food competition, relative to other factors, given the available information. However, given the short time available for this review, it is

unlikely that definitive answers to this question, or other questions listed above, can be obtained. Therefore, the task of this team, drawing from information in the BiOp and other sources, is to address questions 1, 3, 5, and 9 listed above, to the extent practical in the allotted time frame. Further, the team is to focus on the following three tasks:

- (1) Determine the types of information that should be collected and analyses necessary to demonstrate an unequivocal adverse affect of commercial groundfish fisheries on Steller sea lion mortality. Characterize the current availability of such information, the critical data gaps and the impact of data limitations on the determination of fishery/Steller sea lion competitive interactions.
- (2) Recommend an appropriate experimental design to improve our understanding of the interactions between fisheries and Steller sea lions, and the efficacy of imposed management measures to promote recovery of the Steller sea lion population.
- (3) Review reports of stressed pinniped populations worldwide and compare and contrast characteristics of those populations with conditions observed for Steller sea lions.

Effort is expected to total three to four weeks for each participant between now and June. Specific timing of this effort for each participant, and division of duties, is somewhat flexible and will be coordinated by a team Chairman. At least one meeting of the participants as a group is likely, at a time and location to be agreed by the team members. A written report from the team would be due to the Council by May 29. If possible, a member of the team would travel to the Council's June meeting in Kodiak, Alaska to speak to the written report. **The report for June could be a first draft, with a final report due by September 1. In this case work on the final report would overlap with Part 2 of the project, outlined below.**

Part 2: Between June and the end of September, the team would act in an advisory capacity to the Council's Committee process and its development of RPA alternatives. While specifics of this advisory capacity are still being resolved, and are somewhat flexible, it is expected to include review of ongoing analyses, review of new information brought to bear, and review of various management alternatives being considered. The goal is to arrive at an RPA (alternative) that provides adequate protection for SSL and allows fisheries to be appropriately prosecuted. The timing of this part of the task is also flexible to the team's schedule(s), but would include attendance at one or two meetings, likely to be held in Seattle and/or Anchorage. The time and location of these meetings is not certain, but can be scheduled to accommodate the team as much as practical. Total time expected for each team member is three to four weeks.

Participants

The following four individuals will comprise the team:

W. Don Bowen, Ph.D. (Tentatively has agreed to Chair the team)
Research Scientist
Marine Fish Division
Bedford Institute of Oceanography
Department of Fisheries & Oceans
P.O. Box 1006
Dartmouth
B2Y 4A2 Nova Scotia
CANADA

Gordon L. Swartzman, Ph.D.
Senior Engineer
Applied Physics Laboratory
School of Fisheries & Center for Quantitative Science
University of Washington (HN-10)
Seattle, WA 98105

John Harwood, Ph.D.
School of Environmental & Evolutionary Biology
Sea Mammal Research Unit
Gatty Marine Laboratory
University of St. Andrews
St. Andrews
KY16 8LB Fife
SCOTLAND

Daniel Goodman, Ph.D.
Professor of Biology
Department of Biology
Montana State University
Bozeman, Montana 59717

Other

The Council will be represented by its Director, Mr. Chris Oliver, in consultation with the Council's SSL Steering Committee, in all other matters regarding this project, including distribution of necessary materials to the team, coordination of necessary meetings, and receipt and distribution of any reports generated by the team. This will be accomplished through the team Chair who in turn will coordinate the specific review with other team members. The team is expected to operate as autonomously as possible, with only general direction and guidance from the Council Director. Materials to be provided for the Team review include: the November 2000 BiOp; Congressional language; SSC review; descriptions of range of RPAs; relevant maps; Alaska SSL Restoration Team minutes; other material as appropriate.

Agreed to:

Mr. Chris Oliver, NPFMC _____ Date _____

Dr. Daniel Goodman _____ Date _____

Contract Number SSL-01-B

Between: **The North Pacific Fishery Management Council (hereafter referred to as Council) and, THE NATIONAL ACADEMIES DIVISION ON EARTH AND LIFE STUDIES - OCEAN STUDIES BOARD (hereafter referred to as NAS).**

Subject: **The Alaska Groundfish Fishery and Steller Sea Lions**

Summary Scope of Work: This study will examine interactions between Alaska groundfish fisheries and Steller sea lions (*Eumetopias jubatus*, SSLs) and the role of these fisheries in the evolving status of the SSL population. The focus of the study will be: 1) the status of current knowledge about the decline of the SSL population in the Bering Sea and Gulf of Alaska ecosystems, 2) the relative importance of food competition and other possible causes of SSL population decline and impediments to SSL recovery, 3) the critical information gaps in understanding the interactions between SSLs and Alaska fisheries, 4) the type of research programs needed to identify and assess potential human and natural causes of SSL decline, and 5) the components of an effective SSL monitoring program, with yardsticks for evaluating the efficacy of various management approaches.

CONTEXT

Policy Context:

Steller sea lions are found throughout the North Pacific with about 70% living in Alaskan waters. The Alaskan populations have declined by roughly 80% from the mid-1970's to the present. In 1990, the Steller sea lion was listed as a threatened species and in 1997 reclassified as two distinct populations with the population west of 144 degrees W listed as an endangered species and the eastern population still listed as threatened. The causes of this decline are uncertain, although food quality and availability are often cited as likely contributing factors.

Under the Endangered Species Act (ESA), federal agencies are required to ensure that their actions, or actions authorized or funded by them, are not likely to jeopardize the survival or recovery of protected species or damage their critical habitat. Section 7 of the ESA requires that when an action may affect a marine listed species or its critical habitat, the federal agency conducting or authorizing that action must consult with the National Marine Fisheries Service (NMFS). As part of the authorization of the fishery management plans for the commercial groundfish fisheries in the Bering Sea and Aleutian Islands (BSAI) region and the Gulf of Alaska (GOA) region, NMFS summarized the consultation in a biological opinion as required under Section 7 of the ESA. The purpose of the biological opinion is to ascertain if the groundfish fisheries, as implemented under the fishery management plans, are likely to imperil the continued existence of Steller sea lions (and other listed species) or are likely to destroy or adversely modify critical habitat. In the opinion issued on December 22, 1998, NMFS concluded that the groundfish fisheries, excepting pollock, were unlikely to cause harm to listed species. In the case of the pollock fishery, there was a finding of jeopardy and restrictive measures to mitigate this jeopardy were implemented in 1999 and 2000. However, this opinion was challenged in court and found to be arbitrary

and capricious for failing to include a sufficiently comprehensive analysis of groundfish fisheries and their individual, combined, and cumulative effects. On this basis, the court found that NMFS was out of compliance with the ESA (*GreenPeace v. National Marine Fisheries Service*, 80 F. Supp. 2d 1137 WD. Wash. 2000). In the revised Biological Opinion issued on November 30, 2000, NMFS concluded that Steller sea lion populations are jeopardized by the Alaska groundfish fisheries including Atka mackerel, Pacific cod, and pollock, due to competition for prey and modification of prey distribution in critical habitat. This revised Biological Opinion found jeopardy with regard to pollock even with the restrictions imposed after the 1998 Biological Opinion.

At the heart of the recent Biological Opinion is the question of whether the groundfish fisheries compete with Steller sea lions for prey species. Answering this question requires evaluation of the dietary requirements, feeding behavior, and foraging success of the sea lions and analysis of commercial fishing practices at appropriate scales of time and space. Competition occurs if the fisheries reduce the availability of prey such that recovery of the population is compromised. Decreased sea lion condition, growth, reproduction, and survival are key indicators.

Technical Context:

It is critical to understand the cause of the population decline in order to develop policies that are most likely to benefit Steller sea lions. The Ocean Studies Board has been asked to review the scientific information and analyses being used in response to the endangered status of the western Steller sea lion population.

The November 2000 Biological Opinion on Steller sea lions (*Eumetopias jubatus*; SSLs) and Alaska groundfish fisheries was discussed at both the North Pacific Fishery Management Council's December 2000 and February 2001 meetings. The following questions are illustrative of issues of concern: 1) Does the evidence of the degree of overlap and potential adverse interaction of the Atka mackerel, pollock, and Pacific cod fisheries indicate that they impede SSL population recovery, given current and past levels of prey base? 2) Have natural environmental phenomena (eg. climate regime shifts) affected the diet of SSLs? 3) What is the relationship between the quality and quantity of prey fish in the diet of SSLs, and does the evidence support the nutritional stress hypothesis? 4) What is the extent of the area that is critical for SSL foraging based on updated foraging and migration observations? 5) Do the extrapolated rates of SSL decline represent the best available science? 6) What is the impact of shark and killer whale predation on SSL populations? 7) What are the enduring effects of past intentional kills and current subsistence takes? 8) What are other potential causes of the decline in SSLs or impediments to their recovery? and 9) What is the marginal benefit of the various reasonable and prudent alternatives (RPAs) implemented or proposed in response to the 1998 and 2000 Biological Opinions based on existing data?

PLAN OF ACTION

Statement of Task:

This study will examine interactions between Alaska groundfish fisheries and Steller sea lions (*Eumetopias jubatus*, SSLs) and the role of these fisheries in the evolving status of the SSL population. The focus of the study will be: 1) the status of current knowledge about the decline of the SSL population in the Bering Sea and Gulf of Alaska ecosystems, 2) the relative importance of food competition and other possible causes of SSL population decline and impediments to SSL recovery, 3) the critical information gaps in understanding the interactions between SSLs and Alaska fisheries, 4) the type of

research programs needed to identify and assess potential human and natural causes of SSL decline, and 5) the components of an effective SSL monitoring program, with yardsticks for evaluating the efficacy of various management approaches.

Preliminary Work Plan:

A committee of 10 experts will be appointed. The committee will meet four times, including two public sessions, one in Alaska and one in the Washington State. The report will address the five concerns listed in the Statement of Task. The committee will base its findings on an examination of the scientific literature, information contained in the Biological Opinion and supporting materials, input from the public meetings, and other written materials submitted to the committee. A full, in depth pre-publication will be delivered 15 months after receipt of funding (expected to be June 2002). The latter 4 months in the performance period will allow for final editing, layout, and production of the printed report, mailing to committee members and other interested parties, and briefings on the report by staff and committee.

FEDERAL ADVISORY COMMITTEE ACT

The Academy has developed interim policies and procedures to implement Section 15 of the Federal Advisory Committee Act, 5 U.S.C. App. § 15. Section 15 includes certain requirements regarding public access and conflicts of interest that are applicable to agreements under which the Academy, using a committee, provides advice or recommendations to a Federal agency. In accordance with Section 15 of FACA, the Academy shall submit to the government sponsor(s) following delivery of each applicable report a certification that the policies and procedures of the Academy that implement Section 15 of FACA have been substantially complied with in the performance of the grant with respect to the applicable report.

Public Information About the Project

In order to afford the public greater knowledge of Academy activities and an opportunity to provide comments on those activities, the Academy may post on its website (<http://www.national-academies.org>) the following information as appropriate under its procedures: (1) notices of meetings open to the public; (2) brief descriptions of projects; (3) committee appointments, if any (including biographies of committee members); (4) report information; and (5) any other pertinent information.

Product and Dissemination Plan

A report will be prepared subject to the standard NRC review procedures. It will be disseminated to the NPFMC, agency administrators, program managers, congressional staff, scientists and interested local communities. The project staff will coordinate with the NRC Office of News and Public Information to produce materials appropriate for dissemination to the popular press and television and radio media. The report will be made available to the public without restriction and will be posted on the NAS World Wide Web site.

Estimated Cost

The total estimated cost is \$525,000 (see attached budget)

Schedule of Payments

Payments will be made by the Council to the NAS on a monthly billing basis, during the period April 1, 2001 through October 31, 2002, not to exceed \$525,000.

Contract monitoring

Mr. Chris Oliver is the designated Contract Monitor for the Council. Dr. Susan Roberts is the designated Responsible Officer for the NAS. Mr. Oliver is located at the Council's headquarters office, 605 W. 4th Avenue, Suite 306, Anchorage, Alaska; telephone, 907-271-2809.

FRANK H. MURKOWSKI
ALASKA

COMMITTEES:

CHAIRMAN
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March 9, 2001

The Honorable Don Evans
Secretary of Commerce
14th and Constitution Ave., N.W.
Washington, D.C. 20230Dear Mr. ~~Secretary:~~ *Don*

You recently received a February 14, 2001 letter from the Chairman of the North Pacific Fishery Management Council, Mr. David Benton, urging you to adjust the management measures that have been adopted in response to Steller sea lion concerns. This is an urgent and time-sensitive matter.

The explicit authority for such adjustments was provided by Congress in Public Law 106-554, Appendix D, Sec. 209 (c) (6):

"In enforcing regulations for the 2001 fisheries, the Secretary, upon recommendation of the North Pacific Council, may open critical habitat where needed, adjust seasonal catch levels, and take other measures as needed to ensure that harvest levels are sufficient to provide income from these fisheries for small boats and Alaskan on-shore processors that is no less than in 1999."

The scientific basis for the Reasonable and Prudent Alternatives (RPAs) adopted for these fisheries has been widely questioned by fisheries and marine mammal scientists. Most recently, at the February, 2001 meeting of the North Pacific Council, the Council's Scientific & Statistical Committee reported that the Biological Opinion which formed the basis for these actions is scientifically deficient, and is "an unreliable foundation for the proposed RPAs."

While this indicates there are serious doubts about the benefit these measures may have for sea lions, it is abundantly clear that the same measures will greatly damage the fishing-dependent communities in Alaska. The authority in Sec. 209 (c) (6) was enacted to avoid precisely this outcome.

Of the North Pacific Council's suggested actions, those dealing with the cod fishery have the greatest urgency. The directed fishery has already closed due to reaching 60% of the Total Allowable Catch (TAC). In theory, the remaining 40% is to be released later in the year. However, by that time the value of the harvest will be greatly reduced; cod stocks be more widely dispersed and difficult to catch, and the fish will have softened, reducing their per-unit value to fishermen and processors. The only way to ensure a return that approximates that of 1999 is to take immediate action to reopen this fishery -- if not for the whole remaining 40%, then for a minimum of 15% to 20%.

Page 2

The Honorable Don Evans
March 9, 2001

Also specific to the cod fishery is a recommendation to exempt vessels in the Pacific cod jig fishery and other vessels under 60 feet in length fishing for cod around Unalaska and Akutan. Together, these vessels account for only 3.5% of the Bering Sea/Aleutian Island cod harvest. As a group, they are the most vulnerable to economic damage from the RPAs, and their operators and crew are the most vulnerable to increased physical hazards. Relief for this segment of the fleet is greatly needed.

It was also suggested that closures in critical habitat in the Gulf of Alaska should be limited to 10-mile closures around the rookeries and haulouts listed in the current emergency rule, instead of being expanded to 20 miles, and that fishing in the Bering Sea/Aleutians Islands area be allowed under the same rules as in 2000. These changes would be consistent with recently released sea lion tagging data, which indicate that Steller sea lions forage primarily within 10 miles, and at shallower depths than suggested in the Biological Opinion. These data suggest strongly that the current critical habitat restrictions could be scaled back to 10 miles with little or no effect on sea lions. This change would greatly benefit affected fishermen by providing for more efficient harvests, higher-quality fish, and safer working conditions for fishermen.

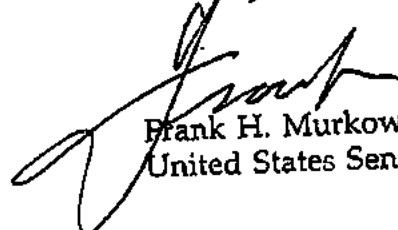
On another issue, the Council urged that the ratio of pollock taken within and outside of sea lion conservation areas in the Bering Sea should be considered as a percentage of the total catch, rather than as a fixed weight of fish. This would allow the increase in the Bering Sea pollock TAC to be reflected in the total catch, without any reduction in the volume of pollock available to sea lions.

Finally, the Council encouraged you to consider the deferral of new closures scheduled for June 10 of this year, and of any other measures that may satisfy the intent of the statute.

Mr. Secretary, I strongly urge you to take steps to moderate the current regulations. I believe you have clear authority to act, and that reasonable changes will in no way endanger the sea lion population. Even the Biological Opinion, flawed though it is, recognizes that there is no imminent threat to the sea lion population. There is, however, a "clear and present danger" to the human population of Alaska's fishing communities.

Thank you for considering this matter. I look forward to receiving your response.

Sincerely,



Frank H. Murkowski
United States Senator



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

MAR 28 2001

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APR - 2 2001

W.P.W.C.

Mr. David Benton
Chairman, North Pacific Fishery
Management Council
605 West 4th Avenue
Anchorage, Alaska 99501-2252

Dear Mr. Benton:

Thank you for your letter regarding modification of fishery management measures that were recently implemented to address Steller sea lion concerns.

The Commerce Department is developing specific recommendations in response to the alternatives outlined in your letter. The Department's General Counsel is assessing the degree to which measures can be modified while still complying with requirements of the Endangered Species Act and other applicable laws.

I appreciate your interest in these important fishery issues.

Warm regards,

Donald L. Evans



NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

February 23, 2001

RECEIVED

FEB 23 2001

N.P.F.M.C

Mr. David Benton
Chairman, North Pacific
Fishery Management Council
605 West 4th Avenue
Anchorage, Alaska 99501-2252

Dear Mr. Benton:

The National Marine Fisheries Service (NMFS) would like to delay final action on a proposed regulatory amendment that would require vessel monitoring systems (VMS) aboard groundfish vessels operating in the Bering Sea, Aleutian Islands, and Gulf of Alaska. Final action on this issue currently is scheduled for the April 2001 North Pacific Fishery Management Council (Council) meeting.

VMS units would improve NMFS's ability to monitor and enforce complex area closures and catch limits that exist in current regulations. In addition, VMS will be essential to implementing Steller sea lion protection measures currently being developed by the Council and NMFS. However, we believe it is premature to take final action on VMS requirements until we know more about how the Steller sea lion protection measures will be implemented. We intend to incorporate analysis of the proposed VMS requirements into the Environmental Impact Analysis and rulemaking that will be prepared for the 2002 Steller sea lion protection measures. Questions about VMS raised at the February 2001 Council meeting will be addressed in this analysis.

Under this process, the Council would take final action on VMS requirements at its October 2001 meeting, when 2002 Steller sea lion protection measures also will be recommended. If you concur with this proposal, we will not send out a revised VMS analysis for public review prior to the April 2001 Council meeting, and we request that this issue not be scheduled for final action at that meeting.

Sincerely,

James W. Balsiger
Administrator, Alaska Region



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MAR - 8 2001

N.P.F.M.C



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, MD 20910

THE DIRECTOR

MAR 7 2001

MEMORANDUM FOR: Chairs, Regional Fishery Management Councils

FROM: *William T. Hogarth*
William T. Hogarth, Ph.D.
Acting Assistant Administrator for Fisheries

SUBJECT: Regional Fishery Management Council Role in the
Endangered Species Act Consultation Process

Section 7 consultation provisions of the Endangered Species Act (ESA) require Federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or the U.S. Fish and Wildlife Service (FWS) on activities they permit, fund, or carry out, that may affect listed species. The Federal agency proposing the action is called the action agency and NMFS and/or FWS would be the consulting agency. Roles, rules, and procedures are clearly described in guidance documents (e.g., Final ESA Consultation Handbook of March 1998) and regulations (50 CFR Part 402 published June 3, 1986). Issuance of the biological opinion is expressly delegated by Congress to the Secretaries of Commerce and Interior.

When NMFS conducts a consultation on fishery management actions under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the process becomes more complicated. The Federal agency that is proposing an action (action agency) is also conducting the consultation (consulting agency). In addition, the fishery management process usually also involves States and Commissions (e.g., Atlantic, Gulf and Pacific States Marine Fisheries Commissions, and the International Commission for the Conservation of Atlantic Tunas); regional fishery management councils (Councils); and resource users and other interested stakeholders.

THE ASSISTANT ADMINISTRATOR
FOR FISHERIES



Council standing and involvement in the ESA process have been a subject of debate. The Councils do not fit the definition of a Federal action agency or applicant within the ESA context (see attached agency legal memorandum). Therefore, it has been longstanding agency policy not to release draft biological opinions other than to the action agency and to share that information with the applicant. Very compressed schedules for rendering biological opinions, oftentimes mandated by court decision, also make it problematic to allow for public review of draft opinions and for agency response to comments. However, it is clear that there is great interest by the affected Councils and public in draft biological opinions and reasonable and prudent alternatives that impact current fishery management regimes.

Therefore, to provide a more open process, I will ensure that the Councils have the opportunity for comprehensive examination of protective measures for listed species during the NEPA process. In response to requests that the affected Councils and public be more involved in the biological opinion process, I have agreed to have the Office of Sustainable Fisheries (as the action agency) release three official draft biological opinions prior to their final signature. These releases will occur by posting the draft opinion to the NMFS internet site (at nmfs.gov), and as an announcement of availability in the *FEDERAL REGISTER*. This exception to agency policy is limited to the official agency drafts of these three opinions only. Official means review and concurrence by the Regional Administrator, the Office of Protected Resources, the General Counsel for Fisheries, and the Assistant Administrator for Fisheries. These biological opinions will be the 2001 Atlantic Pelagic Fishery, 2001 Pacific Pelagic Fishery, and the next biological opinion analyzing changes to the 2001 or 2002 Alaska Groundfish Fishery. Release of these biological opinions does not imply that a period of time has been established for public comment, and although we will consider comments, it does not imply that public comment will be considered as it is during notice-and-comment rulemaking under the Administrative Procedures Act (APA) or during environmental review under NEPA. In addition to the fact that the preparation of a biological opinion under the ESA is an inherently different process than the one conducted under the APA and NEPA, the agency has statutory and sometimes court-imposed deadlines for completing these opinions.

3

After releasing these three draft biological opinions, NMFS will analyze the effects of those releases on the public, the agency, the resources under the agency's administration, and any enhancement of Council involvement in the ESA process, while giving the necessary protections to ESA-listed species.

Moreover, we have two additional studies underway--one that will review how we conduct NEPA reviews and one by the National Academy of Public Administration that we will utilize to improve this policy as necessary.

Attachment

cc: Regional Administrators
Science Center Directors
Office Directors
NOAA General Counsel
General Counsel for Fisheries



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
OFFICE OF THE GENERAL COUNSEL
 Washington, D.C. 20230

February 23, 2001

MEMORANDUM TO: Clarence Pautzke
 Acting Deputy Assistant Administrator

THROUGH: *Margaret F. Hayes*
 Margaret F. Hayes
 Assistant General Counsel for Fisheries

FROM: Roger B. Eckert *Roger Eckert*
 Attorney-Adviser, GCF

SUBJECT: Regional Fishery Management Councils as Federal Agencies or Applicants under the Endangered Species Act (ESA)

QUESTION PRESENTED: Whether Regional Fishery Management Councils are federal agencies or federal permit applicants for consultation purposes under section 7(a)(2) of the ESA.

ANSWER: While Regional Fishery Management Councils have an important role in the management of federal fisheries, they are neither federal agencies nor federal permit applicants for purposes of section 7 consultations under the ESA. Rather, NMFS has encouraged the Councils to consider impacts of fishery management actions on protected resources in the preparation of necessary documents under the National Environmental Policy Act (NEPA). An adequate NEPA analysis of environmental effects, including effects on ESA-listed species, should be consistent with any conclusions reached in a Biological Opinion (BO) on the same action.

DISCUSSION: Under the Magnuson-Stevens Fishery Conservation and Management Act (M-S Act), Councils prepare fishery management plans (FMPs) for fisheries under their jurisdictions that require conservation and management (section 302(h)(1)). The FMPs, or amendments thereto, must be consistent with the M-S Act's ten national standards (301(a)), the rest of the M-S Act, and other applicable law. After developing an FMP or amendment, a Council submits it to NMFS, and NMFS may approve, disapprove, or partially disapprove the submission on behalf of the Secretary. Disapproval must be based on a finding that the submission is inconsistent with applicable law (e.g., the M-S Act, the ESA, NEPA).

The ESA requires NMFS to conserve listed species. In addition, under ESA section 7(a)(2), federal agencies consult with NMFS on their actions affecting listed species under NMFS' jurisdiction. For fisheries management actions, NMFS consults with itself in order to ensure that its actions under the M-S Act (approving and implementing FMPs and amendments) do not jeopardize the continued existence of a listed species, or result in destruction or adverse



modification of critical habitat. Specifically, the Office of Sustainable Fisheries (F/SF) consults with the Office of Protected Resources (F/PR) on the effects of NMFS' M-S Act actions on listed species.

The consultation regulations provide in part that, if requested, NMFS will make available to the federal action agency the draft BO for the purpose of analyzing the reasonable and prudent alternatives (RPAs). 50 CFR 402.14(g)(5). With respect to M-S Act actions, if requested, F/PR makes available to F/SF the draft BO for the purpose of analyzing any RPAs. F/SF plays a constructive role in developing appropriate RPAs for fishery management actions.

The ESA defines the term "federal agency" as any department, agency, or instrumentality of the United States. Councils are not federal action agencies under the ESA because they do not take the action that is subject to section 7(a) requirements. For purposes of ESA consultations and M-S Act actions, NMFS is the federal agency required to satisfy the consultation (and other ESA) requirements, because NMFS approves FMPs and promulgates regulations to implement them.

In addition, a federal permit applicant "may request a copy of the draft opinion from the federal [action] agency." 50 CFR 402.14(g)(5). The regulations do not require the release of a draft BO to an applicant. The term "applicant," for ESA consultation purposes, is defined as any person who requires formal approval or authorization from a federal agency as a prerequisite to conducting an action. Councils are not "applicants" for ESA consultation purposes because their actions are not the subject of consultation; they are not conducting the fishery management actions under the M-S Act. Rather, it is NMFS' responsibility to take the necessary fishery management actions through approval of FMPs and issuance of regulations.

While Councils have a critical role in the management of federal fisheries, they are neither federal agencies nor federal permit applicants for purposes of section 7 consultations under the ESA. Councils must be aware of the effects of proposed fishery management actions on listed species. To this end, NMFS has encouraged Councils to consider impacts of fishery management actions on listed species early in the development of management alternatives and in the preparation of necessary documents under NEPA. An adequate NEPA analysis of environmental effects, including effects on listed species, should be consistent with any conclusions reached in a BO that would be prepared for the same action.

APPENDIX A OF PART 1611—LEGAL SERVICES CORPORATION 2001 POVERTY GUIDELINES¹

Size of family unit	48 Contiguous States and the District of Columbia ²	Alaska ³	Hawaii ⁴
1	\$10,738	\$13,413	\$12,363
2	14,513	18,138	15,700
3	18,288	22,863	21,038
4	22,063	27,588	25,375
5	25,838	32,313	29,713
6	29,613	37,038	34,050
7	33,388	41,763	38,388
8	37,163	46,488	42,725

¹The figures in this table represent 125% of the poverty guidelines by family size as determined by the Department of Health and Human Services.

²For family units with more than eight members, add \$3,775 for each additional member in a family.

³For family units with more than eight members, add \$4,725 for each additional member in a family.

⁴For family units with more than eight members, add \$4,338 for each additional member in a family.

Victor M. Fortunato,
Vice President for Legal Affairs, General Counsel & Corporate Secretary.
 [FR Doc. 01-7824 Filed 3-28-01; 8:45 am]
 BILLING CODE 7050-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94-129; FCC 00-255 and FCC 01-67]

Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of certain carrier change authorization and verification rules we adopted in the Third Report and Order and Second Order on Reconsideration (*Third Report and Order*) in our slamming proceeding and amended in a subsequent Order. The amended *Third Report and Order* was published in the Federal Register on March 1, 2001.

DATES: The amendments to 47 CFR 64.1130(a) through (c), 64.1130(i), 64.1130(j), 64.1180, 64.1190(d)(2), 64.1190(d)(3), 64.1190(e), and 64.1195 published at 66 FR 12877 (March 1, 2001) and at 66 FR 16151 (March 23, 2001) become effective on April 2, 2001.

FOR FURTHER INFORMATION CONTACT: Michele Walters, Associate Division Chief, or Dana Walton-Bradford, Attorney, Accounting Policy Division, Common Carrier Bureau, (202) 418-7400.

SUPPLEMENTARY INFORMATION: In the *Third Report and Order*, released August 15, 2000, the Federal Communications Commission (Commission) revised its carrier change authorization and verification rules. In a subsequent Order, released February 22, 2001, the Commission amended the reporting and registration requirements adopted in the *Third Report and Order*. A summary of the amended *Third Report and Order* was published in the Federal Register. 66 FR 12877 (March 1, 2001). The supplementary information in the summary was corrected in a document published in the Federal Register. 66 FR 16151 (March 23, 2001). The Office of Management and Budget (OMB) approved the information collections contained in section 64.1195 on March 1, 2001. OMB No. 3060-0855. OMB approved the information collections contained in sections 64.1130, 64.1180, and 64.1190 on March 22, 2001. OMB No. 3060-0787. The rules adopted in the amended *Third Report and Order* will take effect on April 2, 2001.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.
 Magalie Roman Salas,
 Secretary.

[FR Doc. 01-7938 Filed 3-28-01; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112012-1070-02; I.D. 011101B]

RIN 064-A082

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Amendments to an emergency interim rule; request for comments.

SUMMARY: NMFS amends an emergency interim rule implementing 2001 Steller sea lion protection measures and harvest specifications for the groundfish fisheries off Alaska. These modifications relax fishing restrictions on vessels fishing for groundfish off Alaska with jig gear and on vessels less than 60 ft (18.3 m) length overall (LOA) fishing for Pacific cod with hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). The intended effect of this emergency interim rule is to relieve specified restrictions implemented by the 2001 Steller sea lion protection measures on the small boat fleet, while continuing to provide protection to Steller sea lions and their critical habitat and to conserve and manage the groundfish resources in the BSAI and the Gulf of Alaska (GOA) in accordance with the Magnuson-Stevens Fishery Conservation and

Management Act (Magnuson-Stevens Act) and section 209 of Pub. L. 106-554. **DATES:** Effective March 23, 2001, through July 17, 2001, except that 50 CFR 679.22(a)(15) and (b)(8), which will be effective on 1200 hours (noon) A.L.T., June 10, 2001, through July 17, 2001. Comments must be received by April 23, 2001.

ADDRESSES: Comments may be sent to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Gravel, or delivered to room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments will not be accepted if submitted via email or Internet.

Copies of the November 30, 2000, Biological Opinion and Incidental Take Statement on Authorization of the BSAI groundfish fisheries based on the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands and Authorization of the GOA groundfish fisheries based on the Fishery Management Plan for Groundfish of the Gulf of Alaska (Comprehensive Biological Opinion), including the Reasonable and Prudent Alternative (RPA), may be obtained from the same address. The Comprehensive Biological Opinion is also available on the NMFS Alaska Region home page at <http://www.fakr.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, Sustainable Fisheries Division, Alaska Region, 907-586-7459 or email at melanie.brown@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone off Alaska under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679. NMFS also has management responsibility for certain threatened and endangered species, including Steller sea lions, under the Endangered Species Act of 1973 (ESA), 16 U.S.C. 1531, *et seq.*, and the authority to promulgate regulations to enforce provisions of the ESA to protect such species.

Background

On January 22, 2001, NMFS published an emergency rule that

established 2001 harvest specifications for the BSAI and GOA groundfish fisheries and implemented 2001 Steller sea lion protection measures for these fisheries (66 FR 7276). These protection measures initiated a one-year phase-in of the RPA developed in the Comprehensive Biological Opinion (see **ADDRESSES**). NMFS determined that the 2001 protection measures provided a sufficient degree of protection to endangered Steller sea lions within the one-year time period and were consistent with the intended purpose of the RPA, the ESA, and with section 209 of Public Law 106-554. This statute, enacted on December 21, 2000, was intended to provide for independent scientific review and additional public and Council assessment of the Comprehensive Biological Opinion and the RPA prior to full implementation of the RPA in 2002.

The January 22, 2001, emergency rule extended the Steller sea lion protection measures that were in place during 2000 for the BSAI Atka mackerel fisheries and the BSAI and GOA pollock fisheries, and also implemented several new measures. A complete description and justification of the 2001 Steller sea lion protection measures are discussed in the preamble to the January 22, 2001, emergency rule (66 FR 7276). These measures are summarized below:

1. No transit zones within 3 nautical miles (nm) of 37 rookery sites;
2. Closure within 10 or 20 nm of 37 rookeries to all trawling year-round;
3. Closure to pollock fishing within 10 or 20 nm of 75 haulouts, seasonally or year-round based on use by sea lions;
4. In the Bering Sea pollock fishery: (a) four seasons with harvest limits within Steller sea lion critical habitat foraging areas; and (b) two seasons (40:60 percent allocation) outside critical habitat;
5. Continuation of Bering Sea pollock fishery cooperatives established under the American Fisheries Act;
6. Gulf of Alaska pollock fishery distributed over four seasons (30:15:30:25 percent allocation);
7. Closure of the Aleutian Islands to pollock fishing;
8. Atka mackerel fishery measures include a vessel monitoring system requirement, continuation of two equal seasons, and restrictions on harvests in critical habitat;
9. Closure of the groundfish fishery to federally permitted vessels within 3 nm of more than 75 important haulout sites identified under established criteria;
10. Two fishing seasons for BSAI and GOA Pacific cod, January 1 to June 10 (60 percent of the total allowable catch

(TAC)) and June 11 to December 31 (40 percent of the TAC);

11. Reduction of the allowable catch for Gulf of Alaska pollock from the Council's recommended 2001 level by 10 percent; and

12. The 2001 Bering Sea pollock harvests in the Steller sea lion conservation area (SCA) are limited to no more than the metric ton amount authorized in the final 2000 harvest specifications.

In addition, the emergency rule implemented the closed areas contained in the RPA on June 10, 2001, for the pollock, Pacific cod, and Atka mackerel fisheries. The Council is in the process of considering modifications to these closures.

At its February 2001 meeting and in a subsequent letter to the Secretary of Commerce, the Council requested that NMFS review statutory language at section 209(c)(6) of Pub. L. 106-554 to assess whether the 2001 Steller sea lion protection measures could be modified consistent with the intent of this statute. Section 209(c)(6) provides that

[i]n enforcing regulations for the 2001 fisheries, the Secretary [of Commerce], upon recommendation of the North Pacific [Fishery Management] Council, may open critical habitat where needed, adjust seasonal catch levels, and take other measures as needed to ensure that harvest levels are sufficient to provide income from these fisheries for small boats and Alaska on-shore processors that is no less than in 1999.

Specifically, the Council requested NMFS to consider the following measures for modification to the January 22, 2001, emergency rule under the section 206(c)(6) of Pub. L. 106-554:

1. In the GOA, allow fishing except for 10 nm closures around those haulouts and rookeries listed in the current emergency rule;
2. In the BSAI, allow fishing to continue as it did under the 2000 Steller sea lion protection measures in place prior to the fishery injunction issued by the Federal court in *Greenpeace v. NMFS*, 106 F. Supp 2d 1066 (W.D. Wash 2000);
3. Allow 100 percent of Pacific cod TAC to be released, beginning January 1, 2001;
4. Allow 2001 removals in the Bering Sea Steller sea lion conservation areas using the identical percentage of TAC as was specified in 2000, rather than limiting catch within the SCA by a fixed metric ton limit;
5. Exempt the BSAI Pacific cod jig fishery from the Steller sea lion protection measures; exempt vessels less than 60 ft (18.3 m) LOA that are fishing the fixed gear cod allocation around Akutan and Unalaska from the Steller sea lion protection measures;

6. Defer until 2002 the closure areas scheduled to be implemented on June 10, 2001; and

7. Consider any other measures that will meet the intent of Public Law 106-554 section 209(c)(6).

NMFS considered the Council's requests and determined that any change to the 2001 Steller sea lion protection measures must be consistent with the ESA, must not pose conservation concerns or differ sufficiently from the 2001 protection measures to require a new consultation under section 7 of the ESA, and must be implemented by rulemaking. Based on these considerations, NMFS is implementing modifications to the 2001 Steller sea lion protection measures with this emergency rule. A summary of NMFS' determinations on each of the seven Council requests are discussed below.

1. In the GOA, allow fishing except for 10 nm closures around those haulouts and rookeries listed in the current emergency rule. Under the January 22, 2001, emergency rule, eight GOA rookeries or haulouts are closed to directed fishing for pollock within 20 nm until June 10, 2001. This measure is unchanged from the 2000 Steller sea lion protection measures. Directed fishing for groundfish by federally permitted vessels also is prohibited within 3 nm of important haulouts.

The Council has established a new committee (RPA Committee) to assess the Comprehensive Biological Opinion and resulting RPA, including the scheduled June 10 closure/opening of critical habitat areas. The RPA Committee is expected to recommend to the Council changes to the June 10 closures that are consistent with the Comprehensive Biological Opinion. The Council has commenced a process to develop modifications to closed areas in consideration of impacts on small boats and coastal communities. Therefore, NMFS will not modify the open/closed critical habitat areas at this time. Recommendations by the RPA Committee for modified closed areas are scheduled to be considered by the Council at its April 2001 meeting. If approved by NMFS, modifications could be implemented by July 17, 2001, when the January 22, 2001, emergency rule expires.

2. In the BSAI, allow fishing as per the 2000 Steller sea lion protection measures in place prior to the injunction. NMFS has determined that the Steller sea lion protection measures in effect immediately before the injunction provide inadequate protection for Steller sea lions and their critical habitat. This request by the

Council would remove all protection measures implemented for the Pacific cod fisheries, as well as other protection measures, in a manner that would be inconsistent with the ESA.

3. Allow 100 percent of Pacific cod TAC to be made available for harvest beginning January 1, 2001. NMFS has determined that a single season for the Pacific cod fisheries would provide inadequate protection for Steller Sea lions and their critical habitat. NMFS has determined that this measure would remove nearly all 2001 protection measures implemented for the Pacific cod in a manner that would be inconsistent with the ESA.

4. Allow 2001 removals in the Bering Sea Steller sea lion conservation area using the identical percentage of the TAC as was authorized in 2000, rather than limiting catch within the area with a fixed metric ton limit. NMFS agrees that an adjustment to the SCA harvest limit can be considered. However, such an adjustment could pose environmental concerns that should be assessed in a deliberative manner that is not conducive to the timing of this emergency rule. Further, any benefits to the Bering sea pollock roe fishery likely could not be realized given that this emergency rule will become effective after the 2001 pollock roe season concludes, probably by late March. Nonetheless, an adjustment to the SCA harvest limit based on a percentage of TAC proportional to seasonal biomass distribution could be considered by the Council and NMFS for the second half of 2001. Any such recommendation by the Council and approved by NMFS could be implemented as part of the Steller sea lion protection measures implemented by July 17, 2001, for the remainder of 2001.

5a. Exempt the BSAI Pacific cod jig fishery from the Steller sea lion protection measures. NMFS agrees to exempt vessels using jig gear from most of the 2001 Steller sea lion protection measures. The relatively small harvests of Pacific cod and Atka mackerel by the jig gear fleet during the 2001 RPA phase-in pose little concern to Steller sea lions and their critical habitat.

The jig gear fleet largely is composed of vessels less than 60 ft (18.3 m) LOA. In 2000, jig gear vessels in the BSAI harvested no Atka mackerel and only 77 mt of Pacific cod. For comparison, the BSAI 2001 Acceptable Biological Catch (ABC) specifications for Atka mackerel and Pacific cod are 69,300 mt and 188,000 mt, respectively. In the GOA, jig gear vessels harvested 42 mt of Pacific cod during the Federal waters fishery. For comparison, the GOA 2001 ABC for Pacific cod is 67,800 mt.

Under this amendment to the January 22, 2001, emergency rule, federally permitted vessels using jig gear will be permitted to fish within 3 nm of important haulouts and in closed Steller sea lion management areas after June 10, 2001. However, no-transit zones around rookeries will remain in place for all vessels and gear types. The seasonal apportionment of the Pacific cod TAC will continue to apply to vessels fishing with jig gear in the GOA because a separate gear allocation does not exist that would facilitate separate treatment of these vessels. In contrast, jig gear vessels in the BSAI have a separate allocation of the Atka mackerel and Pacific cod total TACs. Elimination of the seasonal apportionments of the jig gear allocations of Pacific cod will be implemented consistent with Council intent.

5b. Exempt vessels less than 60 ft (18.3 m) LOA that are fishing the fixed gear Pacific cod allocation around Akutan and Unalaska from the Steller sea lion protection measures. NMFS has determined that this exemption can be implemented in all areas of the BSAI without concern for Steller sea lions and their critical habitat. The amount of Pacific cod harvested in 2000 in the BSAI by these small vessels using fixed gear was 501 mt, which, by comparison, amounts to only 0.3 percent of the 2001 Pacific cod ABC (188,000 mt).

However, the amount of GOA Pacific cod harvested in 2000 by small vessels using fixed gear was 11,260 mt, which is 16.6 percent of the 2001 Pacific cod ABC (67,800 mt). Given this large of a percentage harvested, NMFS cannot exempt the GOA fixed gear fleet less than 60 ft (18.3 m) LOA without further analysis of impact on Steller sea lions and their critical habitat, which will be forthcoming within the next several months. Council and agency analysts currently are assessing the historic groundfish harvest by these vessels in different critical habitat areas for future consideration by the Council when assessing alternative Steller sea protection measures for implementation in 2002 and beyond.

6. Defer until 2002 the closure areas scheduled to be implemented on June 10, 2001. NMFS will not change the open/closed critical habitat areas prior to the completion of the Council process described above (See response to item 1).

7. Any other measures that will meet the intent of Pub. L. 106-554 section 209(c)(6). At this time, NMFS will not implement any other changes to the 2001 Steller sea lion protection measures. Additional changes may be considered for the second half of 2001

under a separate emergency rule that will extend the 2001 protection measures through the end of 2001. Adjustment of 2001 Harvest Specifications

On page 7288, Table 7 to the preamble, published in the emergency rule January 22, 2001 (66 FR 7276), is revised as set forth below. This revision results from the removal of seasonal

harvest limits for the BSAI Pacific cod jig gear fleet and vessels participating in the directed fishery for BSAI Pacific cod using fixed gear and that are less than 60 ft (18.3 m) LOA.

TABLE 7.— 2001 GEAR SHARES AND SEASONAL APPORTIONMENTS OF THE BSAI PACIFIC COD TAC

Gear sector	Percent	Share ¹ (mt)	Subtotal per- centages for gear sectors	Share of gear sector total (mt)	Seasonal apportionment ²	
					Date	Amount (mt)
Total hook-and-line and pot gear allocation of Pacific cod TAC	51	88,689				
Incidental Catch Allowance				500		
Processor and Vessel sub-total				88,189		
Hook-and-line Catcher Processors			80	70,551		
Hook-and-line Catcher			80	70,551	Jan 1 to Jun 10	42,331
					Jun 10 to Dec 31	28,220
Hook-and-Line Catcher Vessels			0.3	265	Jan 1 to Jun 10	159
					Jun 10 to Dec 31	106
Pot Gear Vessels			18.3	16,139	Jan 1 to Jun 10	9,683
					Jun 10 to Dec 31	6,455
Catcher Vessels < 60 feet (18.3 m) LOA using Hook-and-line or Pot gear			1.4	1,235		
Trawl gear Total	47	81,733				
Trawl Catcher Vessel			50	40,867	Jan 1 to Jun 10	24,520
					Jun 10 to Dec 31	16,347
Trawl Catcher Processor			50	40,867	Jan 1 to Jun 10	24,520
					Jun 10 to Dec 31	16,347
Jig	2	3,478				
Total				173,900		

¹The reserve has been released for Pacific cod see (Table 4).

²The first season is allocated 60 percent of the TAC and the second season is allocated 40 percent of the TAC. Any unused portion of the first seasonal Pacific cod allowance will be reapportioned to the second seasonal allowance.

Classification

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that this rule is necessary for the conservation and management of the groundfish fisheries of the BSAI and GOA. The Regional Administrator also has determined that this amended emergency rule is consistent with the Magnuson-Stevens Act and other applicable laws.

This action has been determined to be not significant for purposes of Executive Order 12866. This rule contains no reporting, recordkeeping, or compliance requirements, and no relevant Federal rules exist which may duplicate, overlap, or conflict with this action.

This amended emergency rule is intended to enact section 209(c)(6) of Public Law 106-554 in a manner that is consistent with the ESA. This action relieves restrictions on the use of jig or fixed gear by certain vessels, and immediate implementation will result in economic benefits to those vessels, while presenting no significant harm to Steller sea lions. Accordingly, it would

be contrary to the public interest to provide prior notice and an opportunity for public comment. Therefore, good cause exists to waive those requirements pursuant to 5 U.S.C. 553(b)(2). Moreover, because this rule is not subject to the requirement to provide notice or an opportunity for comment by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Therefore, no initial or final regulatory flexibility analysis has been prepared.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: March 23, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Title II of Division C, Pub.L. 10-277; Sec. 3027, Pub. L. 106-31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106-554.

2. In § 679.22, paragraphs(a)(13) and (b)(6) are suspended, and paragraphs (a)(14), (a)(15), (b)(7) and (b)(8) are added to read as follows:

§ 679.22 Closures.

(a) * * *

(14) No fishing zones. Until 1200 hours, A.l.t., June 10, 2001, except for vessels described in paragraphs (a)(14)(i) and (ii) of this section, directed fishing for groundfish by all federally permitted vessels is prohibited within 3 nm of selected Steller sea lion haulout sites in the BSAI. These sites are listed in Table 21 to this part and are identifiable by a designation "Bering

Sea" or "Aleutian Islands" in column 2, "H" or "RPA" in column 7, and "Y" in column 14. After 1200 hours, A.L.T., June 10, 2001, refer to paragraph (a)(11)(v) of this section for fishing prohibitions in the Bering Sea subarea and the Bogoslov district and paragraph (a)(12)(v) of this section for fishing prohibitions in the Aleutian Islands subarea.

(i) Vessels less than 60 ft (18.3 m) LOA using pot or hook-and-line gear.

(ii) Vessels using jig gear.

(15) Applicable 1200 hours A.L.T., June 10, 2001, through July 17, 2001, vessels using jig gear and vessels less than 60 ft (18.3 m) LOA using pot or hook-and-line gear are exempt from the prohibitions described in paragraphs (a)(11)(v)(B), (a)(11)(v)(C), (a)(12)(v)(B) and (a)(12)(v)(C) of this section.

* * * * *

(b) * * *

(7) *No fishing zones.* Until 1200 hours, A.L.T., June 10, 2001, except for vessels using jig gear, directed fishing for groundfish by all federally permitted vessels is prohibited within 3 nm of selected Steller sea lion haulout sites in the GOA west of 144° W. longitude. These sites are listed in Table 21 to this part and are identifiable by a designation "Gulf of Alaska" in column 2, "H" or "RPA" in column 7, and "Y" in column 14. After 1200 hours, A.L.T., June 10, 2001, refer to paragraph (b)(3)(iv) of this section for fishing prohibitions.

(8) Applicable 1200 hours A.L.T., June 10, 2001, through July 17, 2001, vessels using jig gear are exempt from the prohibitions described in paragraphs (b)(3)(iv)(B) and (b)(3)(iv)(C) of this section.

* * * * *

3. In § 679.23, paragraph (e)(6)(i) is suspended and paragraph (e)(6)(iii) is added to read as follows:

§ 679.23 Seasons.

* * * * *

(e) * * *

(6) * * *

(iii) *Fixed gear.* Except for vessels using jig gear and for vessels less than 60 ft (18.3 m) LOA using pot and hook-and-line gear, subject to other provisions of this part, directed fishing for Pacific cod with fixed gear in the BSAI is authorized only during the following two seasons:

(A) *A season.* From 0001 hours, A.L.T., January 1, through 1200 hours, A.L.T., June 10; and

(B) *B season.* From 1200 hours, A.L.T., June 10, through 2400 hours, A.L.T., December 31.

* * * * *

[FR Doc. 01-7668 Filed 3-23-01; 4:30 pm]
BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013-1073-03; LD, 020901F]

Fisheries of the Exclusive Economic Zone Off Alaska; Final Rule; Adjustment to Emergency Interim Rule

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final Rule; adjustment to the emergency interim rule for Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska.

SUMMARY: NMFS issues a final rule adjusting the seasonal apportionments of the 2001 Pacific halibut bycatch limits specified for the trawl and hook-and-line groundfish fisheries of the Gulf of Alaska (GOA). This action is necessary to optimize the harvest of Pacific cod under new Steller sea lion protection measures implemented under an emergency interim rule, which was effective on January 18, 2001.

DATES: Effective March 23, 2001, through 2400 hrs, A.L.T., July 17, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In December 2000, the Council's Advisory Panel recommended seasonal

Pacific halibut prohibited species catch (PSC) apportionments in order to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of Pacific halibut PSC. The seasonal apportionments of the Pacific halibut PSC were published in Tables 24 and 25 in the preamble of the emergency interim rule implementing the Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001). At an emergency January 12, 2001, meeting, NMFS presented the Council with the 2001 Steller sea lion protection measures, one of which separates the GOA Pacific cod total allowable catch (TAC) into two separate seasonal allowances. The A season, January 1, 2001, through noon, A.L.T., June 10, 2001, is allocated 60 percent of the annual TAC. The B season, starting at noon, A.L.T., June 10, 2001, through midnight, A.L.T., December 31, 2001, is allocated 40 percent of the annual TAC. Trawl gear bycatch of Pacific halibut in the GOA Pacific cod fishery is deducted from the Pacific halibut PSC seasonal allowance established for the shallow-water species trawl fishery. Hook-and-line gear bycatch of Pacific halibut in the GOA Pacific cod fishery is deducted from the Pacific halibut PSC seasonal allowance established for the hook-and-line gear fishery, other than the demersal shelf rockfish fishery. Under § 679.21(d)(5), in order to accommodate the new Pacific cod seasons and optimize the harvest of Pacific cod, the Council recommended, and NMFS concurred, to move 100 metric tons of the Pacific halibut trawl PSC limit for the shallow-water species trawl fishery from the June 10 through July 1 seasonal allowance to the January 20 through April 1 seasonal allowance. Also, the Council recommended, and NMFS concurred, to move 30 mt of the Pacific halibut hook-and-line PSC limit from May 18 through August 31 seasonal allowance to the January 1 through May 17 seasonal allowance.

Tables 24 and 25 of the Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001) are adjusted to read as follows:

Sea" or "Aleutian Islands" in column 2, "H" or "RPA" in column 7, and "Y" in column 14. After 1200 hours, A.l.t., June 10, 2001, refer to paragraph (a)(11)(v) of this section for fishing prohibitions in the Bering Sea subarea and the Bogoslof district and paragraph (a)(12)(v) of this section for fishing prohibitions in the Aleutian Islands subarea.

(i) Vessels less than 60 ft (18.3 m) LOA using pot or hook-and-line gear.

(ii) Vessels using jig gear.

(15) Applicable 1200 hours A.l.t., June 10, 2001, through July 17, 2001, vessels using jig gear and vessels less than 60 ft (18.3 m) LOA using pot or hook-and-line gear are exempt from the prohibitions described in paragraphs (a)(11)(v)(B), (a)(11)(v)(C), (a)(12)(v)(B) and (a)(12)(v)(C) of this section.

* * * * *

(b) * * *

(7) No fishing zones. Until 1200 hours, A.l.t., June 10, 2001, except for vessels using jig gear, directed fishing for groundfish by all federally permitted vessels is prohibited within 3 nm of selected Steller sea lion haulout sites in the GOA west of 144° W. longitude. These sites are listed in Table 21 to this part and are identifiable by a designation "Gulf of Alaska" in column 2, "H" or "RPA" in column 7, and "Y" in column 14. After 1200 hours, A.l.t., June 10, 2001, refer to paragraph (b)(3)(iv) of this section for fishing prohibitions.

(8) Applicable 1200 hours A.l.t., June 10, 2001, through July 17, 2001, vessels using jig gear are exempt from the prohibitions described in paragraphs (b)(3)(iv)(B) and (b)(3)(iv)(C) of this section.

* * * * *

3. In § 679.23, paragraph (e)(6)(i) is suspended and paragraph (e)(6)(iii) is added to read as follows:

§ 679.23 Seasons.

* * * * *

(e) * * *

(6) * * *

(iii) Fixed gear. Except for vessels using jig gear and for vessels less than 60 ft (18.3 m) LOA using pot and hook-and-line gear, subject to other provisions of this part, directed fishing for Pacific cod with fixed gear in the BSAI is authorized only during the following two seasons:

(A) A season. From 0001 hours, A.l.t., January 1, through 1200 hours, A.l.t., June 10; and

(B) B season. From 1200 hours, A.l.t., June 10, through 2400 hours, A.l.t., December 31.

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[FR Doc. 01-7668 Filed 3-23-01; 4:30 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013-1073-03; I.D. 020901F]

Fisheries of the Exclusive Economic Zone Off Alaska; Final Rule; Adjustment to Emergency Interim Rule

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final Rule; adjustment to the emergency interim rule for Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska.

SUMMARY: NMFS issues a final rule adjusting the seasonal apportionments of the 2001 Pacific halibut bycatch limits specified for the trawl and hook-and-line groundfish fisheries of the Gulf of Alaska (GOA). This action is necessary to optimize the harvest of Pacific cod under new Steller sea lion protection measures implemented under an emergency interim rule, which was effective on January 18, 2001.

DATES: Effective March 23, 2001, through 2400 hrs, A.l.t., July 17, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In December 2000, the Council's Advisory Panel recommended seasonal

Pacific halibut prohibited species catch (PSC) apportionments in order to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of Pacific halibut PSC. The seasonal apportionments of the Pacific halibut PSC were published in Tables 24 and 25 in the preamble of the emergency interim rule implementing the Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001). At an emergency January 12, 2001, meeting, NMFS presented the Council with the 2001 Steller sea lion protection measures, one of which separates the GOA Pacific cod total allowable catch (TAC) into two separate seasonal allowances. The A season, January 1, 2001, through noon, A.l.t., June 10, 2001, is allocated 60 percent of the annual TAC. The B season, starting at noon, A.l.t., June 10, 2001, through midnight, A.l.t., December 31, 2001, is allocated 40 percent of the annual TAC. Trawl gear bycatch of Pacific halibut in the GOA Pacific cod fishery is deducted from the Pacific halibut PSC seasonal allowance established for the shallow-water species trawl fishery. Hook-and-line gear bycatch of Pacific halibut in the GOA Pacific cod fishery is deducted from the Pacific halibut PSC seasonal allowance established for the hook-and-line gear fishery, other than the demersal shelf rockfish fishery. Under § 679.21(d)(5), in order to accommodate the new Pacific cod seasons and optimize the harvest of Pacific cod, the Council recommended, and NMFS concurred, to move 100 metric tons of the Pacific halibut trawl PSC limit for the shallow-water species trawl fishery from the June 10 through July 1 seasonal allowance to the January 20 through April 1 seasonal allowance. Also, the Council recommended, and NMFS concurred, to move 30 mt of the Pacific halibut hook-and-line PSC limit from May 18 through August 31 seasonal allowance to the January 1 through May 17 seasonal allowance.

Tables 24 and 25 of the Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001) are adjusted to read as follows:

TABLE 24.—FINAL 2001 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS. THE PACIFIC HALIBUT PSC LIMIT FOR HOOK-AND-LINE GEAR IS ALLOCATED TO THE DEMERSAL SHELF ROCKFISH (DSR) FISHERY AND FISHERIES OTHER THAN DSR. THE HOOK-AND-LINE SABLEFISH FISHERY IS EXEMPT FROM HALIBUT PSC LIMITS. (VALUES ARE IN MT.)

Trawl gear		Hook-and-line gear			
Dates	Amount	Other than DSR		DSR	
		Dates	Amount	Dates	Amount
Jan 1–Apr 1	550 (28%)	Jan 1–May 17	205 (70%)	Jan 1–Dec 31	10 (100%)
Apr 1–Jun 10	400 (20%)	May 17–Aug 31	Any rollover		
Jun 10–Jul 1	150 (7%)	Aug 31–Dec 31	85 (30%)		
Jul 1–Oct 1	600 (30%)				
Oct 1–Dec 31	300 (15%)				
Total	2,000 (100%)		290 (100%)		10 (100%)

TABLE 25 - FINAL 2001 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE TRAWL GEAR DEEP-WATER SPECIES COMPLEX AND THE SHALLOW-WATER SPECIES COMPLEX. (VALUES ARE IN MT.)

Season	Shallow-water	Deep-water	Total
Jan. 20–Apr. 1	450	100	550
Apr. 1–Jun. 10	100	300	400
Jun. 10–Jul. 1	150	0	150
Jul. 1–Oct. 1	200	400	600
Subtotal			
Jan. 20–Sep. 30	900	800	1,700
Oct. 1–Dec. 31			300
Total			2,000

No apportionment between shallow-water and deep-water fishery complexes during the 4th quarter.

Classification

The Administrator, Alaska Region (Regional Administrator), NMFS, has determined that this rule is necessary for the conservation and management of the groundfish fisheries of the BSAI and GOA. The Regional Administrator also determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This rule contains no reporting, recordkeeping, or compliance requirements, and no relevant Federal rules exist which may duplicate, overlap, or conflict with this rule.

This adjustment must be implemented immediately to avoid foregone catch in the A season GOA Pacific cod fishery. GOA Pacific cod is typically harvested in the first 3 months of the year. By increasing the amount of halibut PSC available in the first few months of the year, this adjustment will accommodate the new Pacific cod seasons and optimize the harvest of Pacific cod. Therefore, NMFS finds that good cause exists to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5

U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to optimize the harvest of GOA Pacific cod constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

Because prior notice and opportunity for public comment are not required for this final rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Thus no initial or final regulatory flexibility analysis has been prepared.

Dated: March 23, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

[FR Doc. 01-7667 Filed 3-23-01; 4:30 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013-1013-01; I.D. 032301B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels 60 Feet Length Overall and Using Pot Gear in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher processor vessels using pot gear and catcher vessels 60 ft (18.3 m) length overall (LOA) and longer using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season apportionment of the 2001 total allowable catch (TAC) of Pacific cod allocated to vessels using pot gear in this area.

INFORMATION BULLETIN (01-36) - March 23, 2001
Sustainable Fisheries Division 4:00 P.M.
907-586-7228

**NMFS PROVIDES RELIEF TO CERTAIN SMALL VESSELS FISHING IN SOME
STELLER SEA LION PROTECTION AREAS**

The National Marine Fisheries Service (NMFS) is providing relief to jig vessels and vessels under 60 feet length overall (LOA) from certain fishing restrictions in Steller sea lion protection areas in the Bering Sea and Aleutian Islands (BSAI) and the Gulf of Alaska (GOA), effective March 23, 2001 until July 17, 2001, according to James W. Balsiger, Administrator, Alaska Region, NMFS.

Steller sea lion protection areas around haulouts include a 3 nautical miles (nm) no fishing zone for all federally permitted groundfish fishing vessels. These no fishing zones are listed in Table 21 to 50 CFR part 679. NMFS is allowing jig vessels in the BSAI and GOA to fish for groundfish within 3 nm of these haulouts. NMFS is also allowing vessels under 60 feet LOA using pot or hook-and-line gear to fish within the 3nm no fishing areas around haulouts in the BSAI only. The Pacific cod seasons in the BSAI is eliminated for vessels using jig gear and for vessels less than 60 LOA using hook-and-line or pot gear.

Because of the minimal percentage of groundfish taken by BSAI and GOA jig vessels and BSAI vessels less than 60 feet LOA using pot and hook-and-line gear, these revisions are expected to have no significant impact on the western population of Steller sea lions. Additional revisions to Steller sea lion protection measures are currently under consideration by the North Pacific Fisheries Management Council for including with the extension of the emergency interim rule through the end of 2001.

This information bulletin only provides notice of a regulatory change. For the purposes of complying with the regulatory change, you are advised to see the actual text in the Code of Federal Regulations. Regulatory text, including Table 21, may be accessed through the Alaska Region NMFS home page at <http://www.fakr.noaa.gov>

the Ecological Services Field Office—Anchorage (see ADDRESSES section).

Authors

The primary authors of this rule are Brian Anderson and Anthony DeGange (see ADDRESSES section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulations Promulgation

For the reasons set out in the preamble, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.11 [Amended]

2. Section 17.11(h) is amended by removing the entry for “Goose, Aleutian Canada, *Branta canadensis leucopareia*” under “BIRDS” from the List of Endangered and Threatened Wildlife.

Dated: November 28, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 01–6894 Filed 3–19–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1013–01; LD. 011101B]

RIN 0648–A082

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; correction.

SUMMARY: This document corrects the emergency interim rule implementing Steller sea lion protection measures and announcing final 2001 harvest specifications and associated management measures for the groundfish fisheries of the Bering Sea and Aleutian Islands (BSAI) management area and the Gulf of Alaska (GOA). The emergency interim rule was published in the Federal Register January 22, 2001.

DATES: Effective from January 18, 2001, through July 17, 2001, except for 50 CFR 679.22(a)(11)(v), (a)(12)(v), and (b)(3)(iv), which will be effective from 1200 hours (Noon) A.l.t., June 10, 2001, through July 17, 2001.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, Sustainable Fisheries Division, Alaska Region, 907–586–7459 or email at melanie.brown@noaa.gov.

SUPPLEMENTARY INFORMATION: This document corrects text and tables in the

preamble and regulatory text to 50 CFR part 679 of the emergency interim rule implementing Steller sea lion protection measures and announcing final 2001 harvest specifications for the groundfish fisheries of the BSAI and GOA that was published in the Federal Register on January 22, 2001 (66 FR 7276). Also, in the regulatory text of the emergency interim rule, Table 21 is reprinted in its entirety because it was sent incorrectly for publication.

Corrections

In the emergency interim rule implementing Steller sea lion protection measures and announcing final 2001 harvest specifications for the groundfish fisheries of the BSAI and GOA, published on January 22, 2001 (66 FR 7276), FR Doc. 01–1744, corrections are made as follows:

1. On page 7283, column 1, correct the first complete paragraph to read as follows: “In the GOA, three of the haulout sites that qualify for closure to 10 nm under criteria in the 1998–1 BiOp, Point Elrington, The Needles, and Glacier Island, lie entirely within Alaska State waters. The State of Alaska has developed temporal and spatial Steller sea lion protection measures for pollock harvests. Because these sites are located in waters under State jurisdiction and the State has implemented Steller sea lion protection measures, these sites are not established as pollock trawl exclusion zones under this emergency rule.”

2. On page 7287, column 1, in the first paragraph after Table 5 to the preamble, line 17, the reference to “§ 679.22(a)(8)” is corrected to read “§ 679.22(a)(12)”.

3. On page 7287, column 2, line 11 of the incomplete paragraph, the reference to “(§ 679.22(a)(8)(iii)(B))” is corrected to read “(§ 679.22(a)(12)(iii)(B))”.

4. On page 7292, Table 11 to the preamble is reprinted to read as follows:

TABLE 11—BERING SEA SUBAREA POLLOCK ALLOCATIONS TO THE COOPERATIVE AND OPEN ACCESS SECTORS OF THE INSHORE POLLOCK FISHERY. AMOUNTS ARE EXPRESSED IN METRIC TONS

	A/B season TAC	A season inside SCA ¹	B season inside SCA	C/D season TAC	C season inside SCA ¹	D season inside SCA
Cooperative sector						
Vessels > 99 ft	n/a	65,036	n/a	n/a	n/a	49,031
Vessels ≤ 99 ft	n/a	16,447	n/a	n/a	n/a	16,447
Total	240,976	81,483	27,161	361,465	39,286	65,478
Open access sector	944	3192	106	1,415	154	*256
Total inshore	241,920	81,802	27,267	362,880	39,440	65,734

¹Steller sea lion conservation area established at § 679.22(a)(11)(iv).

² SCA limitations for vessels less than or equal to 99 ft LOA that are not participating in a cooperative will be established on an inseason basis in accordance with § 679.22(a)(11)(iv)(D)(2) which specifies that "The Regional Administrator will prohibit directed fishing for pollock by vessels greater than 99 ft (30.2 m) LOA, catching pollock for processing by the inshore component before reaching the inshore SCA harvest limit during the A and D seasons to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA for the duration of the inshore seasonal opening."

5. On page 7300, footnote 2 to Table 19 to the preamble is corrected to read as follows:
 "2 Pollock is apportioned in the Western/Central Regulatory areas to the Shelikof Strait conservation area (defined at § 679.22(b)(3)(iii)(B)) in the A and B seasons only (§ 679.22(b)(3)(iii)(A)) in accordance with § 679.22(b)(3)(iii)(C) and the remainder to the three statistical areas in the combined Western/Central Regulatory Area outside the Shelikof Strait based on the relative distribution of pollock biomass at 56 percent, 4 percent, and 40 percent in Regulatory areas 610, 620, and 630 respectively. During the C and D seasons, pollock is apportioned based on the relative distribution of pollock biomass at 42 percent, 25 percent, and 33 percent in Regulatory Areas 610, 620, and 630 respectively. These seasonal

apportionments are shown in Tables 21 and 22. In the West Yakutat and Southeast Outside Districts of the Eastern Regulatory Area, pollock is not divided into seasonal allowances."

6. On page 7301, in column 1, paragraph 1 after Table 20 to the preamble, line 12, the reference "§ 679.23(d)(2)" is corrected to read "§ 679.23(d)(3)" and in paragraph 2, line 4, the reference "§ 679.22(b)(2)(iii)(B)" is corrected to read "§ 679.22(b)(3)(iii)(B)".

7. On page 7301, in column 2, in the last line of the incomplete paragraph after Table 20 to the preamble, the reference " (§ 679.22(b)(2)(iii)(C))" is corrected to read " (§ 679.22(b)(3)(iii)(C))".

8. On page 7302, in footnote 1 to Table 22 to the preamble, the expiration date for pollock is corrected from "June 10, 2001" to read "July 17, 2001".

9. On page 7303, in Table 23 to the preamble, under the TAC column for Central B Season (40%), correct "12,250" to read "12,100";

§ 679.22 [Corrected]

9a. On page 7316, column 3, amendatory instruction 8 is corrected to read as follows:

"8. In § 679.22, paragraphs (a)(7), (a)(8), and (b)(2) are suspended until July 17, 2001, and paragraphs (a)(11), (a)(12), (a)(13), (b)(3), and (b)(6) are added to read as follows:"

10. Under § 679.22:

a. On page 7317, columns 1–3, the table under paragraph (a)(11)(iv)(D)(1) is correctly revised to read as follows:

- (a) * * *
- (1) * * *
- (iv) * * *
- (D) * * *
- (1) * * *

SEASONAL DFA APPORTIONMENT AND HARVEST LIMITS WITHIN THE SCA
 (in metric tons)

Industry Sector	A/B (40% of annual DFA)		C/D (60% of annual DFA)	
	A-SCA limit	B-SCA limit	C-SCA limit	D-SCA limit
Inshore	81,802	27,267	39,440	65,734
Inshore Open Access	319	106	154	256
C/P	38,564	12,854	0	0
Mothership	14,607	4,869	0	0
CDQ	28,247	9,339	9,567	15,718

b. On page 7317, column 1, paragraph (a)(11)(iv)(D)(2) is corrected to read as follows:

- (a) * * *
- (1) * * *
- (iv) * * *
- (D) * * *
- (2) *Inshore catcher vessels greater than 99 ft (30.2 m) LOA.* The Regional Administrator will prohibit directed fishing for pollock by vessels greater than 99 ft (30.2 m) LOA, catching pollock for processing by the inshore component before reaching the inshore SCA harvest limit during the A and D seasons to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA for the duration of the inshore seasonal opening. The Regional Administrator will estimate how much of the inshore seasonal allowance is likely to be harvested by catcher vessels less than or equal to 99 ft (30.2 m) LOA and reserve a sufficient amount of the inshore SCA allowance to

accommodate fishing by such vessels after the closure of the SCA to inshore vessels greater than 99 ft (30.2 m) LOA. The Regional Administrator will prohibit directed fishing for all inshore catcher vessels within the SCA when the inshore limit specified in paragraph (a)(11)(iv)(D)(1) of this section has been met.

c. On page 7317, column 2, paragraphs (a)(11)(v)(A)(2), (a)(11)(v)(A)(3) and (a)(11)(v)(C) are corrected to read as follows:

- (a) * * *
- (1) * * *
- (v) * * *
- (A) * * *
- (2) *Area 8.* All waters within the SCA, as defined in 50 CFR 679.22(a)(11)(iv)(B), east to a line connecting the point 55° 30' N lat./166° W long. with the point 54° 51' N lat./164° 33' 33" W long., and west to the eastern boundary of area 518, as described in figure 1 of this part, and

including 20 nm seaward of selected sites. These sites are listed in Table 21 to this part and are identifiable by "Bering Sea" in column 2 and "8" in column 16.

(3) *Area 9.* All waters within the SCA, as defined in 50 CFR 679.22(a)(11)(iv)(B), east to the eastern boundary of area 518, as described in figure 1 of this part, west to the western boundary of area 518, as described in figure 1 of this part, and north to 55° N lat., and including 20 nm seaward of selected sites. These sites are listed in Table 21 to this part and are identifiable by "Bering Sea" in column 2 and "9" in column 16.

(C) Directed fishing for groundfish by all federally permitted vessels is prohibited within 3 nm of selected sites in Steller sea lion management areas 7, 8, and 9. These sites are listed in Table 21 to this part and are identifiable by a

"Y" in column 14 and "7", "8", or "9" in column 16.

d. On page 7317, column 3, paragraph (a)(12)(iii)(A) is corrected to read as follows:

(a) * * *

(12) * * *

(iii) *Western and Central Aleutian Islands closures—(A) General.* Trawling is prohibited within 20 nm of selected rookery and haulout sites in the Aleutian islands subarea when the Regional Administrator announces by notification in the *Federal Register* that the criteria for a trawl closure in a district set out in paragraph (a)(12)(iii)(B) of this section have been met. These sites are listed in Table 21 to this part and are identifiable by a designation of "Aleutian Islands" in column 2, "R" or "H" in column 7, "Y" or "N" in column 14, and "C" in column 15.

* * * * *

e. On page 7318, column 1, paragraph (a)(12)(iv) is corrected to read as follows:

(a) * * *

(12) * * *

(iv) *Pollock closure.* Until 1200 hours, A.l.t., June 10, 2001, directed fishing for pollock is prohibited at all times within the Aleutian Islands subarea. After 1200 hours, A.l.t., June 10, 2001, refer to paragraph (a)(12)(v) of this section for fishing prohibitions.

f. On page 7318, column 1, paragraph (a)(12)(v)(C) is corrected to read as follows:

(a) * * *

(12) * * *

(v) * * *

(C) Directed fishing for groundfish by all federally permitted vessels is prohibited within 3 nm of selected sites in Steller sea lion management areas 12 and 13. These sites are listed in Table 21 to this part and are identifiable by a "Y" in column 14 and "12" or "13" in column 16.

g. On page 7319, column 1, paragraph (b)(3)(iv)(C) is corrected to read as follows:

(b) * * *

(3) * * *

(iv) * * *

(C) Directed fishing for groundfish by all federally permitted vessels is prohibited within 3 nm of selected sites in Steller sea lion management areas 1, 2, 3, 4, 5, 6, 10, and 11. These sites are listed in Table 21 to this part and are identifiable by an "Y" in column 14 and "1", "2", "3", "4", "5", "6", "10" or "11" in column 16.

h. On page 7319, column 1, paragraph (b)(5) is corrected by redesignating it as paragraph (b)(6).

§ 679.60 [Corrected]

11. On page 7321, column 1, after § 679.60(d)(1)(iv), add paragraph "(2) [Reserved]".

12. On page 7323, column 3, instruction 12 is corrected to read "In 50 CFR part 679, Tables 4, 5, and 6 to part 679 are suspended, and Table 21 to part 679 is added to read as follows:"

Table 21 to Part 679 [Corrected]

13. On page 7324, Table 21 to part 679 is reprinted to read as follows:

BILLING CODE 3510-22-S

Table 21 to 50 CFR Part 679 Steller Sea Lion Protection Areas in the Bering Sea, Aleutian Islands and Gulf of Alaska

Column Number 1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Site name	Management Region	Boundaries from		Boundaries to 2		ESA listed or RPA*	No trans zone 3 nm	Critical habitat nm	Directed fishing for pollock prohibited within... (nm)		Trawling prohibited within... (nm)		3 nm closure Y or N	Closure areas under 113200 RPA	
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)				Jan. 20 - Jun. 1	Jun. 10 - Nov. 1	Jan. 1 - Jun. 10	Year-round		Open Closed	Area Number
St. Lawrence I/S Puntuk I.	Bering Sea	63 04.00 N	168 51.00 W			H		20					N	C	6
St. Lawrence I./SW Cape Hall I.	Bering Sea	63 18.00 N	171 28.00 W			H		20					N	C	6
St. Paul I./Sea Lion Rock	Bering Sea	60 37.00 N	173 00.00 W			H		20					N	C	8
St. Paul I./NE Pt.	Bering Sea	57 08.00 N	170 17.50 W			H		20					N	C	8
Walrus I. (Pribilof)	Bering Sea	57 15.00 N	170 08.50 W			H		20					N	C	8
St. George I./Dainal Pt.	Bering Sea	57 11.00 N	169 58.00 W			R	3	20	20		10		Y	C	8
St. George I./Rookery	Bering Sea	56 38.00 N	169 46.00 W			H		20					N	C	8
Cape Newenham	Bering Sea	56 33.50 N	169 40.00 W			H		20					N	C	8
Round (Walrus Islands)	Bering Sea	56 39.00 N	169 58.00 W			H		20					N	C	8
Allu I./Cape Wrangell	Aleutian Island	52 54.80 N	172 27.60 E	62 55.40 N	172 27.20 E	R	3	20				10	Y	C	13
Agattu I./Gillon Pt.	Aleutian Island	52 24.13 N	173 21.31 E			R	3	20				10	Y	C	13
Allu I./Chirikof Pt.	Aleutian Island	62 49.75 N	173 28.00 E			H		20					Y	C	13
Agattu I./Cape Sabek	Aleutian Island	52 22.50 N	173 43.30 E	62 21.80 N	173 41.40 E	R	3	20				10	Y	C	13
Aldof I.	Aleutian Island	52 48.50 N	173 51.50 E	62 45.00 N	173 56.50 E	H		20					Y	C	13
Shemya I.	Aleutian Island	52 44.00 N	174 03.70 E			H		20					Y	C	13
Budir I.	Aleutian Island	52 20.25 N	176 54.03 E	62 20.38 N	175 53.85 E	R	3	20				10	Y	C	13
Kiska I./Cape St. Stephen	Aleutian Island	61 62.60 N	177 12.70 E	61 53.50 N	177 12.00 E	R	3	20				10	Y	C	13
Kiska I./Sotaka & Vega	Aleutian Island	61 48.60 N	177 18.00 E	61 48.50 N	177 20.50 E	H		20					Y	C	13
Kiska I./Lief Cove	Aleutian Island	61 57.18 N	177 20.41 E	61 57.24 N	177 20.53 E	R	3	20				10	Y	C	13
Kiska I./Strus Pt.	Aleutian Island	62 08.50 N	177 36.50 E			H		20					Y	C	13
Tanadak I. (Kiska)	Aleutian Island	61 56.60 N	177 48.80 E			H		20					Y	C	13
Sagala I.	Aleutian Island	61 59.00 N	178 05.80 E	62 03.06 N	178 08.80 E	H		20					Y	C	13
Ayupadak Point	Aleutian Island	61 45.38 N	178 24.30 E			R	3	20				10	Y	C	13
Rat I./Krysi Pt.	Aleutian Island	61 49.88 N	178 12.35 E			RPA		20					Y	C	13
Lille Sirkh I.	Aleutian Island	61 58.30 N	178 28.80 E			H		20					Y	C	13
Amchika I./Column Rocks	Aleutian Island	61 32.32 N	178 49.28 E			R	3	20				10	Y	C	13
Amchika I./East Cape	Aleutian Island	61 22.25 N	178 27.93 E	61 22.00 N	178 27.00 E	R	3	20				10	Y	C	13
Amchika I./Cape Ivokin	Aleutian Island	61 24.48 N	178 24.21 E			RPA		20					Y	C	13
Semisopchnoi/Pelrel Pt.	Aleutian Island	62 01.40 N	178 38.90 E	62 01.50 N	178 38.90 E	R	3	20				10	N	C	13
Semisopchnoi I./Pochnoi Pt.	Aleutian Island	61 57.30 N	178 48.00 E			R	3	20				10	Y	C	13
Amatignek I./Ninof Pt.	Aleutian Island	61 13.00 N	178 07.60 W			H		20					Y	C	13
Unelga & Oinkum Rocks	Aleutian Island	61 33.67 N	178 04.25 W	61 35.09 N	178 03.88 W	H		20					Y	C	13
Ulak I./Hogcox Pt.	Aleutian Island	61 18.80 N	178 58.90 W	61 18.70 N	178 59.60 W	R	3	20				10	Y	C	13
Kavata I.	Aleutian Island	61 34.50 N	178 51.73 W	61 34.50 N	178 49.50 W	H		20					N	C	13
Tag I.	Aleutian Island	61 33.50 N	178 34.50 W			R	3	20				10	Y	C	13
Ugidak I.	Aleutian Island	61 34.95 N	178 30.45 W			H		20					Y	C	13
Gramp Rock	Aleutian Island	61 28.87 N	178 20.58 W			R	3	20				10	Y	C	13
Tanaga I./Bumpy Pt.	Aleutian Island	61 55.00 N	177 58.50 W	61 55.00 N	177 57.10 W	H		20					Y	C	13
Bobrof I.	Aleutian Island	61 54.00 N	177 27.00 W			H		20					Y	C	13
Kanaga I./Ship Rock	Aleutian Island	61 46.70 N	177 20.72 W			H		20					Y	C	13
Kanaga I./North Cape	Aleutian Island	61 58.50 N	177 09.00 W			H		20					Y	C	15
Adak I.	Aleutian Island	61 35.50 N	178 57.10 W	61 37.40 N	178 59.60 W	R	3	20				10	Y	C	12
Lille Tanaga Strait	Aleutian Island	61 48.09 N	178 13.80 W			H		20					Y	C	12
Great Sirkh I.	Aleutian Island	62 08.00 N	178 10.50 W	62 08.60 N	178 07.00 W	H		20					N	C	12
Anagakik I.	Aleutian Island	61 50.68 N	178 53.00 W			H		20					Y	C	12
Kasalochi I.	Aleutian Island	62 11.11 N	178 31.00 W			R	3	20				10	Y	C	12
Aika I./N. Cape	Aleutian Island	62 24.20 N	174 17.80 W			H		20					Y	C	12
Amila I./Svech. Harbor	Aleutian Island	62 01.80 N	173 23.90 W			H		20					Y	C	12
Sopigik I.	Aleutian Island	62 00.50 N	173 09.30 W			H		20					Y	C	12
Amila I./East	Aleutian Island	62 05.70 N	172 59.00 W	62 05.75 N	172 57.50 W	H		20					Y	C	12
Tanadak I. (Amila)	Aleutian Island	62 04.20 N	172 67.80 W			H		20					Y	C	12
Agigadak I.	Aleutian Island	62 08.09 N	172 54.23 W			R	3	20				20	Y	C	12

David Benton, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

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N.P.F.M.C

cc: James Balsiger, Regional Administrator
National Marine Fisheries Service
709 W. 9th St.
PO Box 21668
Juneau, AK 99802-1668
Gov. Tony Knowles, etc.

RE: Steller sea lion RPA regulations for the remainder of the 2001
groundfish fishing seasons

Chairman Benton:

I am deeply concerned about the fate of Steller sea lions in Alaska and the health of North Pacific ecosystems. I disagree with the recent efforts of the Council-appointed RPA Committee to roll back protections of Steller sea lion critical habitat and to ignore the clear requirements of the Endangered Species Act. The industry-dominated RPA Committee seems to be attempting to circumvent the Endangered Species Act. As the public body charged with management of the fisheries which have been found to jeopardize the survival and recovery of Steller sea lions, the North Pacific Fishery Management Council must reject this charade of ESA compliance.

At no time has NMFS or the Fishery Management Council adequately addressed the fundamental contradiction between a fisheries management system that has allowed major groundfish trawl fisheries to concentrate their effort and catches in Steller sea lion critical habitat on the one hand, and the legal obligation to protect the food supplies of endangered species on the other. Nor has NMFS addressed the potential ecosystem-altering cumulative effects of a single-species Maximum Sustainable Yield (MSY) "harvest policy" on the food web and habitat of sea lions, including the potential for such a strategy to reduce the effective carrying capacity of the ecosystem for top predators such as the Steller sea lion.

Science can neither prove nor disprove that fisheries are undermining the ecological balance of the North Pacific and jeopardizing Steller sea lions, but Steller sea lions are particularly vulnerable to large-scale fishing of this kind because they are the major direct competitor with the fisheries.

The November 2000 Steller sea lion FMP BiOp concludes that direct and indirect competitive interactions with groundfish fisheries do

jeopardize the survival and recovery of sea lions and cause adverse modification of sea lion critical habitat at three temporal-spatial scales: the global, the regional and the local.

Any acceptable alternative to the illegal emergency rules imposed by Senator Stevens' legislative rider of last December should be based on levels of fishing highly likely to avoid competition with Steller sea lions at all three scales of competitive interaction identified by NMFS in the FMP BiOp. Groundfish trawlers account for the lion's share of the catch in sea lion critical habitat, thus the only way to insure that the major groundfish fisheries avoid jeopardy and adverse modification of critical habitat is to exclude all trawlers from critical habitat. An adequate RPA package must include the following elements, as presented by National Environmental Trust and World Wildlife Fund to the RPA Committee last week:

1. At the global scale, reduce groundfish catch levels.
2. At the regional scale, disperse groundfish fisheries in time by distributing fisheries catches into at least four seasons and disperse the fisheries spatially into broad management areas.
3. At the local scale within critical habitat, exclude trawl fishing gear from all sea lion critical habitat.
4. For the fixed-gear (non-trawl) cod fishery, employ daily catch limits, vessel size and gear limits, and at least four seasonal allocations of the cod allocation inside critical habitat in order to disperse the effort of lower-impact hook-and-line and pot gear fishermen in a way that is highly likely to avoid harming Steller sea lions.

I urge you to reject the industry-sponsored RPA committee recommendations and adopt these more precautionary provisions for the remainder of the 2001 groundfish fishing seasons and beyond.

Sincerely,



Jocelyn Paine
P. O. Box 91366
Anchorage, AK 99509

David Benton, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252
April 2, 2001

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APR - 4 2001

N.P.F.M.C

Re: Steller sea lion RPA regulations for the remainder of the 2001 groundfish fishing seasons

Dear Chairman Benton,

I am deeply concerned about the fate of Steller sea lions in Alaska and the health of the North Pacific ecosystems. I deplore the recent efforts of the Council-appointed RPA Committee to roll back protections of Steller sea lion critical habitat and ignore the clear requirements of the Endangered Species Act. The industry-dominated RPA Committee represents a transparent attempt to circumvent the Endangered Species Act and perpetuate an illegal status quo operation of the fisheries. As the public body charged with management of the fisheries which have been found to jeopardize the survival and recovery of Steller sea lions, the North Pacific Fishery Management Council must reject this charade of ESA compliance.

At no time has NMFS or the Fishery Management Council adequately addressed the fundamental contradictions between a fisheries management system that has allowed major groundfish trawl fisheries to concentrate their effort and catches in Steller sea lion critical habitat, on one hand, and the legal obligation to protect the food supplies on the other hand. Nor has NMFS addressed the potential ecosystem-altering cumulative effects of a single-species Maximum Sustainable Yield (MSY) "harvest policy" on the food web and habitat of sea lions, including the potential for such a strategy to reduce the effective carrying capacity of the ecosystem for top predators such as the Steller sea lion.

Science can neither prove nor disprove that fisheries are undermining the ecological balance of the North Pacific and jeopardizing Steller sea lions, but it is a fact that mainstays in the Steller sea lion's diet such as walleye pollock, Atka mackerel and Pacific cod have become the targets of rapidly expanding groundfish fisheries pioneered by Japanese and Russian factory trawl ships in areas that only 30 years ago supported the largest populations of Steller sea lions in the world. Steller sea lions are particularly vulnerable to large-scale fishing of this kind, because they are the major direct competitor with the fisheries. Given the concern that sea lions are food limited, the present operation of these large-scale fisheries in critical habitat makes no sense. There is every good

reason for excluding these fisheries from critical habitat areas and shifting the burden of proof to fisheries managers to demonstrate that these fisheries are not a serious problem, as required by the ESA.

The November 2000 Steller sea lion FMP BiOp concludes that direct and indirect competitive interactions with groundfish fisheries do jeopardize the survival and recovery of sea lions and cause adverse modifications of sea lion critical habitat at 3 temporal-spatial scales – the global, the regional and the local. NMFS identifies 4 major categories of fisheries effects on sea lions and their habitat: reductions in global biomass levels, effects of disturbance on the prey field, and effects of temporal and spatial concentrations of fishing within critical habitat. In the FMP BiOp, NMFS clearly says that sea lion conservation measures must avoid jeopardy and adverse modifications “at all three scales where the competitive interactions occur.”

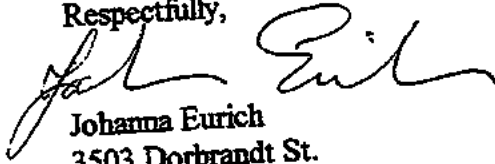
Any acceptable alternative to the illegal emergency rules imposed by Senator Stevens’ legislative rider of last December should be based on levels of fishing highly likely to avoid competition with Steller sea lions at all three scales of competitive interaction identified by NMFS in the FMP BiOp. Groundfish trawlers account for the lion’s share of the catch in sea lion critical habitat, thus the only way to insure that major groundfish fisheries avoid jeopardy and adverse modification of critical habitat is to exclude all trawlers from critical habitat. An adequate RPA package must include the following elements, as presented by National Environmental Trust and World Wildlife Fund to the RPA Committee last week:

- At the global scale, reduce groundfish catch levels. Spawning stock biomass for these important sea lion prey species should be maintained at high levels relative to the average stock size expected under un-fished conditions in order to avoid adverse impacts to Steller sea lions and other predators in the North Pacific food web.
- At the regional scale, disperse groundfish fisheries in time by distributing fisheries catches into at least four seasons and disperse the fisheries spatially into broad management areas in order to reduce the probability of localized depletions associated with removing large amounts of biomass from concentrated areas in short periods of time, known as “pulse” fishing.
- At the local scale, within critical habitat, exclude trawl fishing gear from all sea lion critical habitat to achieve complete spatial separation from foraging sea lions and eliminate the possibility of direct food competition and disturbance on the prey field.
- For the fixed-gear (non trawl) cod fishery, employ daily catch limits, vessel size and gear limits, and at least four seasonal allocations of the cod allocation inside critical habitat in order to disperse the effort of lower-impact hook-and-line and

pot gear fishermen in a way that is highly likely to avoid harming Steller sea lions.

I urge you to reject the industry-sponsored RPA committee recommendations and adopt these more precautionary provisions for the remainder of the 2001 groundfish fishing seasons and beyond.

Respectfully,



Johanna Eurich
3503 Dorbrandt St.
Anchorage, AK 99503

Cc: James Balsiger, Regional Administrator, National Marine Fisheries Service
Governor Tony Knowles

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public information

4/3/2001 PUBLIC COMMENT

3503 DORBRANDT ST.
ANCHORAGE, AK 99503

DAVID BENSON
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

DAVE,

I WATCHED THE DELIBERATIONS OF THE RPA COMMITTEE FOR A WHILE, AND IT WAS CLEAR TO ME THAT THEY WERE CONCERNED MORE ABOUT PROTECTING THE FISHING INDUSTRY THAN STELLER SEA LIONS.

THE MAJORITY MEMBERS TALKED THEMSELVES INTO VIOLATING THE ENDANGERED SPECIES ACT. I DO NOT THINK THIS IS A GOOD IDEA.

"WHAT PART OF THE PHRASE "BURDEN OF PROOF" DO YOU REGULATORS HAVE TROUBLE UNDERSTANDING? THE EXCUSES FOR WEAKENING THE NO-TRAWL PROTECTIONS ARE FLIMSY AND UNCERTAIN. THE DATA IS SCANTY.

IT'S ONE THING FOR U.S. SENATORS TO VIOLATE THE E.S.A. IT IS QUITE ANOTHER FOR THE COUNCIL TO DO IT. I URGE YOU TO REJECT THE COMMITTEE'S RECOMMENDATIONS.

WITH GRAVE CONCERN,


STEVE HEIMEL

Carol J. Alexander
HC 7, Box 50
Aitkin, MN 56431
218/927-4991
snowflea@emily.net

April 2, 2000

David Benton, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252
Fax: (907) 271-2817

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APR - 4 2001
N.P.F.M.C

RE: Steller sea lion regulations for the groundfish fishing seasons

Dear Chairman Benton:

I am writing to express my concern for the declining population of Steller Sea Lions in Alaska. The Council-appointed RPA Committee seems determined to disdain the requirements of the Endangered Species Act. The fishing industry is obviously dominating this process, and indeed, all that has preceded it. The National Marine Fisheries Service and the Fishery Management Council have consistently and illegally favored the perceived economic well-being of the groundfish trawl fishery to the detriment of federally protected Steller sea lion populations.

As you know, the Endangered Species Act requires protection of the listed species' food supplies. The actions of of the Council and NMFS are ignoring this mandate in order to perpetuate a scale of groundfish trawling in the region that cannot be sustained; the determination to maintain an old-school type of management regimen under the archaic notion of Maximum Sustainable Yield is doomed to degrade the entire North Pacific marine system. Above, I referred to the perception of economic well-being of the fishery: a fishery that degrades an entire system will eventually degrade themselves out of business. When keynote predator species begin to decline in a marine system whose benthic communities are repetitively disrupted or simply destroyed, it should not require much time and thought to determine there is a problem.

The November 2000 Steller sea lion FMP BiOp concludes that direct and indirect competitive interactions with groundfish fisheries do jeopardize the survival and recovery of sea lions and cause adverse modification of sea lion critical habitat at three temporal-spatial scales: the global, the regional and the local (NMFS 2000. FMP BiOp, p. 289). How can this be more clear?

The RPA Committee is no doubt proceeding with its illegal recommendations with what probably feels like impunity, given the precedent-setting illegal actions of the Senator from Alaska, Ted Stevens. Likely, the Council feels it can continue to do business as usual, satisfying the needs of the fisheries while ignoring the ecological imperative of the real world system they are imperiling. I think the days of impunity are over. Notwithstanding the seemingly limitless ability of Senator Stevens to pull more shenanigans out of his hat, there is judicial as well as public exposure as there has never been before. You will note that I am writing from the

midwest of the lower 48, northern Minnesota. Although you may not hear from a lot of other folks in the Midwest during this particular round, you can count on an increasing national and international awareness of the degraded state of the global ocean and its coastal systems.

I endorse the entirely reasonable recommendations for an adequate RPA package, as presented by National Environmental Trust and World Wildlife Fund to the RPA Committee last week, and ask you to reject the industry-sponsored RPA committee for the remainder of the 2001 groundfish fishing seasons and beyond.

Thank you for accepting my comments. Please incorporate them into the public record.

Sincerely,

Carol J. Alexander

Sent by fax 4/3/01

cc: James Balsiger, Regional Administrator
National Marine Fisheries Service
709 W. 9th St.
PO Box 21668 Juneau,
AK 99802-1668 Fax: (907) 586-7249



UNITED STATES DEPARTMENT OF
National Oceanic and Atmospheric Ad
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, MD 20910

THE DIRECTOR

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N.P.F.M.C.

Mr. David Benton
Chairman, North Pacific Fishery
Management Council
605 West 4th Avenue
Anchorage, Alaska 99501-2251

Dear Mr. *Don* Benton:

This letter is a follow-up to Secretary Evans' letter of March 28, 2001, regarding modification of the 2001 Steller sea lion protection measures implemented under the January 22, 2001, emergency rule.

NMFS carefully considered the Council's requests within the framework of Public Law 106-554 and other environmental laws. On March 23, 2001, NMFS filed with the Office of the Federal Register an emergency rule implementing revisions to the January 22, 2001, emergency rule that are responsive to part of your request. This rule provides relief from the January 22 rule for some small boats and coastal communities. A summary of NMFS' determinations on each of the seven Council requests is enclosed. While we are not able to accommodate all of the Council's requests, we will continue to work with the Council and various stakeholders to develop long-term solutions.

I appreciate your efforts to formulate the RPA Committee and have directed my staff to cooperate fully in their efforts. I look forward to working with you to protect Steller sea lions while accommodating the needs of Alaska's coastal fishing communities.

Sincerely,

Bill

William T. Hogarth, Ph.D.
Acting Assistant Administrator
for Fisheries

Enclosure

cc: Craig O'Connor, Acting NOAA General Counsel
Jim Balsiger, Alaska Regional Administrator
Congressional Delegations of Alaska,
Washington, and Oregon

THE ASSISTANT ADMINISTRATOR
FOR FISHERIES



ENCLOSURE

1. In the Gulf of Alaska, allow fishing except for 10 nm closures around those haulouts and rookeries listed in the current emergency rule. Under the January 22, 2001, emergency rule, areas within 20 nm of eight GOA rookeries or haulouts are closed to directed fishing for pollock until June 10, 2001. This measure is unchanged from the 2000 Steller sea lion protection measures. Directed fishing for groundfish by federally permitted vessels also is prohibited within 3 nm of important haulouts. Further changes such as allowing fishing between 10-20 nm in those areas would not be consistent with the November 2000 biological opinion and cannot be made at this time. However, we are in the process of analyzing satellite tagging data that will allow us to assess this better in the coming months.

The Council's new Reasonable and Prudent Alternative Committee (RPA Committee) is working to assess alternatives to the November 2000 Biological Opinion and resulting RPA, including the scheduled June 10 closure/opening of critical habitat areas. The RPA Committee is expected to recommend changes to the June 10 closures that are consistent with the need to adequately protect Steller sea lions. The analyses of satellite tagging data will be used in developing those proposed area changes and impacts on small boats and coastal communities will be considered. Therefore, while NMFS is not able to modify the open/closed critical habitat areas at this time, alternatives are being evaluated for the second half of the year.

Recommendations by the RPA Committee for modified closed areas are scheduled to be considered by the Council at its April 2001 meeting. If approved by NMFS, modifications could be implemented by July 17, 2001, when the January 22, 2001, emergency rule expires. During the June 10 to July 17 interim period, the scheduled June 10 closures/openings of critical habitat will be in effect.

2. In the BSAI, allow fishing to continue as it did under the 2000 Steller sea lion protection measures in place prior to the injunction. NMFS has determined that the Steller sea lion protection measures in effect immediately before the injunction provide inadequate protection for Steller sea lions and their critical habitat. This request by the Council would remove all protection measures implemented for the Pacific cod fisheries, as well as other protection measures, in a manner that would be inconsistent with the current biological opinion.

3. Allow 100 percent of Pacific cod TAC to be made available for harvest beginning January 1, 2001. NMFS has determined that a single season for the Pacific cod fisheries would provide

inadequate protection for Steller Sea lions and their critical habitat. NMFS has determined that this measure would remove nearly all 2001 protection measures implemented for the Pacific cod in a manner that would be inconsistent with the current biological opinion.

4. Allow 2001 removals in the Bering Sea Steller sea lion conservation area (SCA) using the identical percentage of the TAC as was authorized in 2000, rather than limiting catch within the area with a fixed metric ton limit. NMFS agrees that an adjustment to the SCA harvest limit is possible. However, such an adjustment could pose environmental concerns that should be assessed in a deliberative manner. The timing of this emergency rule does not allow such an assessment. Further, given that this emergency rule will become effective after the 2001 pollock roe season concludes (typically by late March), it is unlikely that any benefits to the Bering Sea pollock roe fishery could be realized. Nonetheless, an adjustment to the SCA harvest limit based on a percentage of TAC proportional to seasonal biomass distribution could be considered by the Council and NMFS for the second half of 2001. Any such recommendation by the Council could be implemented as part of the Steller sea lion protection measures implemented by July 17, 2001, for the remainder of 2001, as long as NMFS determines it provides adequate protection under the ESA.

5a. Exempt the BSAI Pacific cod jig fishery from the Steller sea lion protection measures. NMFS agrees to exempt vessels using jig gear from most of the 2001 Steller sea lion protection measures. The relatively small harvests of Pacific cod and Atka mackerel by the jig gear fleet during the 2001 RPA phase-in pose little concern to Steller sea lions and their critical habitat.

The jig gear fleet is composed largely of vessels less than 60 ft LOA. In 2000, jig gear vessels in the BSAI harvested no Atka mackerel and only 77 mt of Pacific cod. For comparison, the BSAI 2001 Acceptable Biological Catch (ABC) specifications for Atka mackerel and Pacific cod are 69,300 mt and 188,000 mt, respectively. In the GOA, jig gear vessels harvested 42 mt of Pacific cod during the Federal waters fishery. For comparison, the GOA 2001 ABC for Pacific cod is 67,800 mt.

Under this revision to the January 22, 2001, emergency rule, federally permitted vessels using jig gear will be permitted to fish within 3 nm of important haulouts. However, no-transit zones around rookeries will remain in place for all vessels and gear types. The seasonal apportionment of the Pacific cod total allowable catch (TAC) will continue to apply to vessels fishing with jig gear in the GOA because a separate gear allocation does not exist to facilitate separate treatment of these vessels. In

contrast, jig gear vessels in the BSAI have a separate allocation of the Atka mackerel and Pacific cod TACs and the seasonal apportionments of the jig gear allocations of Pacific cod can be eliminated.

5b. Exempt vessels less than 60 feet length overall (LOA) that are fishing the fixed gear Pacific cod allocation around Akutan and Unalaska from the Steller sea lion protection measures. NMFS has determined that this exemption can be implemented in all areas of the BSAI without posing risk to Steller sea lions and their critical habitat. The amount of Pacific cod harvested in 2000 in the BSAI by these small vessels using fixed gear was 501 mt, which, by comparison, amounts to only 0.3 percent of the 2001 Pacific cod ABC (188,000 mt).

However, the amount of GOA Pacific cod harvested in 2000 by small vessels using fixed gear was 11,260 mt, which is 16.6 percent of the 2001 Pacific cod ABC (67,800 mt). Given this large percentage of ABC harvested, NMFS cannot exempt the GOA fixed gear fleet less than 60 ft LOA without further analysis of the impact on Steller sea lions and their critical habitat. The analysis will be forthcoming within the next several months. Council and agency analysts currently are assessing the historic groundfish harvest by these vessels in different critical habitat areas for future consideration by the Council when assessing alternative Steller sea protection measures.

6. Defer until 2002 the closure areas scheduled to be implemented on June 10, 2001; For the reasons described in response to Item 1, NMFS cannot change the open/closed critical habitat areas at this time.

7. Any other measures that will meet the intent of Public Law 106-554 section 209(c)(6). While NMFS evaluated other options, NMFS has determined that it cannot implement any other changes to the 2001 Steller sea lion protection measures at this time for reason already described. Additional changes may be considered for the second half of 2001 under a separate emergency rule that will extend the 2001 protection measures through the end of 2001.

One such change that the Council may wish to consider would be to allow trawl vessels targeting groundfish other than Atka mackerel, i.e., Pacific cod, to fish in critical habitat within Aleutian Islands (AI) areas 542 and 543 once the Atka mackerel critical habitat limits have been reached and directed fishing for Atka mackerel within these areas is closed. Currently, regulations prohibit all groundfish trawling in critical habitat within an AI district once the Atka mackerel limit is reached. Once the remainder of the seasonal limit for Atka mackerel is reached for the AI district, the area inside of critical habitat

is reopened to trawling for other groundfish species. Original reasons for this provision include ease of enforcement prior to implementing vessel monitoring system (VMS) requirements. Although VMS units became mandatory for the Atka mackerel fleet in late 2000, NMFS did not advocate relaxing prohibitions on trawling for Pacific cod in critical habitat.

NMFS is receptive to reassessing this position now that the agency has completed the November 2000 Biological Opinion and implemented 2001 protection measures to mitigate impacts of the Pacific cod fisheries on Steller sea lions. There may no longer be a reason to prohibit all trawling for groundfish in AI critical habitat once the Atka mackerel harvest limit is reached. Mandatory VMS requirements have been implemented and the agency can track each Atka mackerel vessel's compliance with critical habitat closures. Thus, upon Council request, we would consider a regulatory change to allow for trawling for other groundfish species in AI critical habitat when an Atka mackerel critical habitat harvest limit has been reached.

FRANK H. MURKOWSKI
ALASKA

COMMITTEES:

CHAIRMAN

ENERGY AND NATURAL RESOURCES

FINANCE

VETERANS' AFFAIRS

INDIAN AFFAIRS

United States Senate

WASHINGTON, DC 20510-0202

(202) 224-8665

(202) 224-5301 FAX

April 4, 2001

RECEIVED

APR - 5 2001

N.P.F.M.C

The Honorable Don Evans
Secretary of Commerce
14th and Constitution Ave., N.W.
Washington, D.C. 20230

Dear Mr. Secretary:

While I have not yet received your formal response to my March 9 letter, I have been made aware that the National Marine Fisheries Service (NMFS) has published a partial response to the urgent issues I raised.

As you will recall, I wrote to support recommendations made in a February 14 letter you received from David Benton, chairman of the North Pacific Fisheries Management Council. The Service responded to these recommendations by exempting vessels using jig gear and vessels under 60 feet in length operating in the Bering Sea/Aleutian Islands (BSAI) fishing areas.

I appreciate these changes, and recognize that they apply throughout the BSAI, not solely around the ports of Akutan and Unalaska, as had been suggested by the Council. The distinction allows additional vessels around Adak Island to fish.

However, I feel compelled to note that these changes have the least impact on overall industry productivity. In other words, they make only minimal progress toward the goal set by Congress in Public Law 106-554, which provided you with the authority to take measures for the 2001 fishing season "... to ensure that harvest levels are sufficient to provide income from these fisheries for small boats and Alaskan on-shore processors that is no less than in 1999."

The recent adjustments fall far short. Indeed, failing to act quickly on other Council recommendations will make it impossible to reach that goal.

The Acting Assistant Administrator for Fisheries has indicated that additional steps for 2001 may be taken after the North Pacific Council makes recommendations on changes to the RPAs now in effect. He is to be commended for recognizing the need, and for understanding and supporting the role of the Council. Nonetheless, this further delay exacerbates the damage that already has been done to Alaskan fishermen and fishing-dependent communities.

222 WEST 7TH AVENUE, BOX 1
ANCHORAGE, AK 99513-7570
(907) 271-3735

101 12TH AVENUE, BOX 7
FAIRBANKS, AK 99701-6278
(907) 456-0233

P.O. BOX 21647
JUNEAU, AK 99802-1647
(907) 588-7400

130 TRADING BAY ROAD, SUITE 350
KENAI, AK 99811-7710
(907) 263-8808

109 MAIN STREET
KETCHIKAN, AK 99801-8489
(907) 275-6880

851 E. WESTPOINT DRIVE, SUITE 307
WASILLA, AK 99654-7142
(907) 376-7665

The Honorable Don Evans
April 4, 2001

Page 2

Mr. Secretary, my earlier letter noted questions about the Biological Opinion (BiOp) that forms the basis for restricting these fisheries. I quoted the Council's scientific advisory committee, which described it as "scientifically deficient." This was damning language from one scientist to another. The fact is, the BiOp ignored, denigrated, misinterpreted and discounted important information that was readily available, but which did not fit a pre-selected, politically-correct hypothesis. At best, it was negligent for the agency to accept this document as the "best available science." At worst, it was a deliberate perversion of the objective review process required by the Endangered Species Act.

Alaska's fishermen have a long history as advocates for and practitioners of the principles of intelligent, conservation-wise resource use. They have repeatedly shown themselves willing to make sacrifices when conservation needs require it, and this case is no different. If the science requires action, Alaskans will step forward. However, it is wrong to endanger our communities and citizens on the basis of patently flawed analyses.

I strongly urge you to review the reports of the Council's Scientific and Statistical Committee and the State of Alaska Steller Sea Lion Restoration Committee, both of which have carefully reviewed the BiOp and found it severely lacking. I would be happy to provide copies -- and I guarantee you will find them disturbing.

Finally, I urgently recommend that you take the appropriate steps to re-initiate the agency's analysis of these fisheries under Section 7 of the Endangered Species Act, and to ensure that the resulting new draft Biological Opinion receives the widest possible review before it is finalized. There is no doubt that reinitiation is necessary, and it is critical that the process be completed in good time, so that regulations for the 2002 fisheries can be made responsive to a new, more objective document. If this is not done, they will continue to be governed by the recommendations in the biased document issued last year, and the the agency will remain mired in controversy and hamstrung by court orders.

Thank you for considering this matter. I look forward to receiving your response.

Sincerely,



Frank H. Murkowski
United States Senator

Thorvoid Olsen
 F/V Viking Star
 PO Box 322, Kodiak, AK 99615
 tel: 907-486-5387; fax: 907-486-8126

RECEIVED
 APR - 4 2001
 N.P.F.M.C

April 3, 2001

Mr. David Benton, Chair
 North Pacific Fishery Management Council
 Anchorage, AK

Agenda Item C-2-Steller Sea Lion Measures

Dear Mr. Benton,

I was born in Kodiak, and have been fishing all of my life around Kodiak Island. I am 65 yrs. old. I own and operate the F/V Viking Star (58' LOA). I fish for cod with pots in the Shelikof Strait about 3 or 4 months a year. The cod pot fishery is a very clean fishery with no bycatch. I see no reason why we cannot fish inside the 3 mile radius by the sea lion haulout. Every cod does not go in a pot. In fact, I am sure that only a small percent of the cod are caught in our pots.

The bottom of the ocean floor around the haulouts in Alaska is very rich with seafood that the sea lions eat. There are flounder, many kinds of sole, sculpins, octopus, skate, dogfish, black bass, tom cod, greenling, lingcod, mackerel, arrowtooth flounder, turbot, perch, many kinds of rockfish, eels, capelin, smelt, eulachon, sandlance and other species that I cannot name. There is a lot of feed fish (eulachon, candlefish, etc.) showing up around Kodiak Island. We see clouds of them on our bottom sounder.

We, the pot boats, take so little of the sea lion food chain. Fishing by one haulout for 11 years, I have seen only 2 sea lions come by my boat. They were not eating. I live on the channel in Kodiak, and I see 100 times as many sea lions come by my house as I see come by my boat. Sea lions are opportunistic feeders. Whatever is handy is what they will eat first.

In the last 3 years, there have been a lot of whales around Kodiak Island. They stay around until the middle of January. Once I saw killer whales get into a herd of sea lions. I saw killer whales swimming with sea lions in their mouth like you or I would put a hot dog in our mouth. So, I have personally seen killer whales killing sea lions.

Article 8, Section 3 of our Alaska Constitution says-Common Use-"Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use."

Section 14-Access to Navigable Waters-"Free access to the navigable or public waters of the state, as defined by the legislature, shall not be denied any citizen of the United States or resident of the state."

Section 16 -Protection of Rights-"No person shall be involuntarily divested of his right to the use of waters."

Not letting me fish these waters is denying me my rights that these 3 sections says is mine.

Fishing year around, I see more sea lions than I did 5 years ago. I see new haulouts on Ugak Island and Little River Rock (about 150 animals). I see more sea lions around the Kodiak harbor too. We even have resident killer whales around the Kodiak harbor.

I ask that you let the pot boats fish inside the 3 mile radius of sea lion haulouts.

Sincerely,


 Thorvoid Olsen
 F/V Viking Star

Reasonable and Prudent Alternative (RPA) Committee

A progress report to the
North Pacific Fishery Management Council
April 2001



Larry Cotter, chair
Dave Witherell, staff

RPA Committee Members

- | | |
|------------------------|-----------------|
| ■ Larry Cotter (chair) | ■ John Winther |
| ■ Dave Benson | ■ Bob Small |
| ■ Shane Capron | ■ Fred Robison |
| ■ Doug DeMaster | ■ Gearald Leape |
| ■ John Guavin | ■ Jerry Bongen |
| ■ Terry Leitzell | ■ John Iani |
| ■ Alan Parks | ■ Matt Moir |
| ■ Beth Stewart | ■ Dave Cline |
| ■ Jack Tagart | ■ Steve Drage |
| ■ Sue Hills | ■ Tony DeGange |
| ■ Wayne Donaldson | |

Background

- In February, the Council tasks the Committee to:
 - To make recommendations on open/closed areas 2001.
 - Council direction: give consideration to small boat concerns in development of open/closed areas; such measures should be developed in a 'non-allocative' manner.
 - To develop RPA alternative and experimental design for 2002 amendment package for June meeting.

Goals and Objectives

- Goal: Develop an RPA that meets the mandates of the ESA, MSFCMA, and other applicable laws, while conserving marine biodiversity and sustaining viability of the diverse fishing communities dependent upon the Alaska fishery resources.
- Objectives:
 - Remove jeopardy and adverse modification.
 - Develop a sound experimental design for monitoring.
 - Minimize social and economic impacts.
 - Minimize bycatch of PSC and other groundfish.
 - Promote safety at sea.

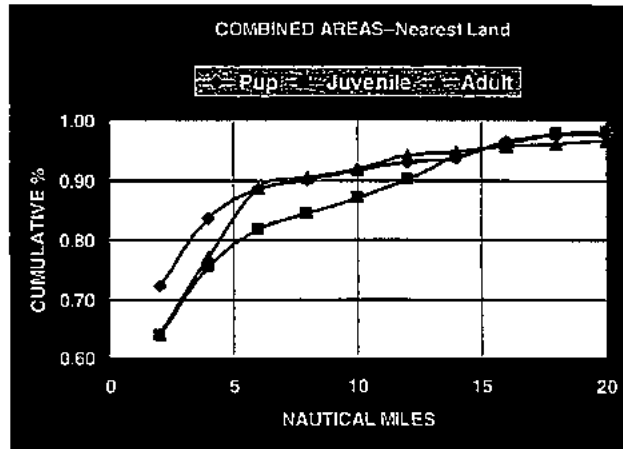
Meetings To Date

- February 10: meeting schedule, initial data requests.
- February 20: ESA, NEPA; refined data request.
- March 6-7: goals & objectives, jeopardy & adverse modification criteria, killer whale abundance studies, scat studies, SSL biology, NMFS surveys, ASSLRT report.
- March 25-29: MSFCMA, Kodiak prey studies, satellite telemetry data, GIS catch/survey/count data analysis, developed final recommendation for 2001.

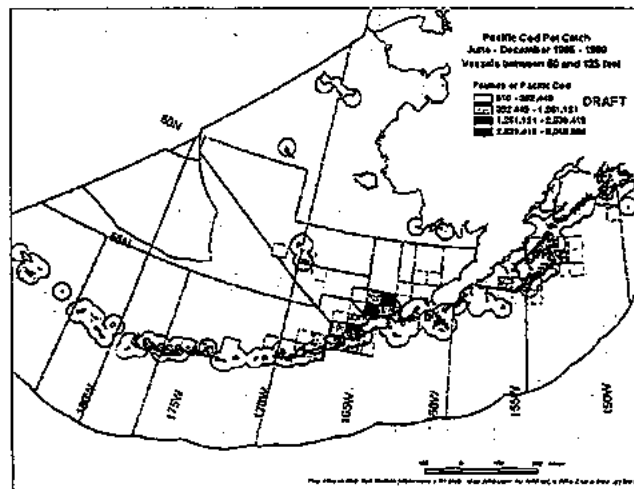
Analyses Undertaken for Committee

- Satellite Telemetry Data Summary
 - distance from shore and marking location
- Geographic Information System (GIS) Maps:
 - catch by gear type and vessel size
 - NMFS trawl survey data by ADF&G statistical area
 - SSL counts, rookeries and haulouts
 - SSL trends by region (metapopulation analysis)
 - Platform of opportunity data (sightings of SSL)
 - Vessel safety data (locations of accidents)
- 1999 Ex-vessel and Product Value Data
 - by area, vessel length group and gear type

Summary of Satellite Data



Example Map of GIS data



ESA Mandates

- ESA requires that each Federal agency insure that any Federal action is not likely to: (1) jeopardize the continued existence of any listed species OR (2) result in the destruction or adverse modification of critical habitat of such species.
 - Jeopardize the continued existence of means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.
 - Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.

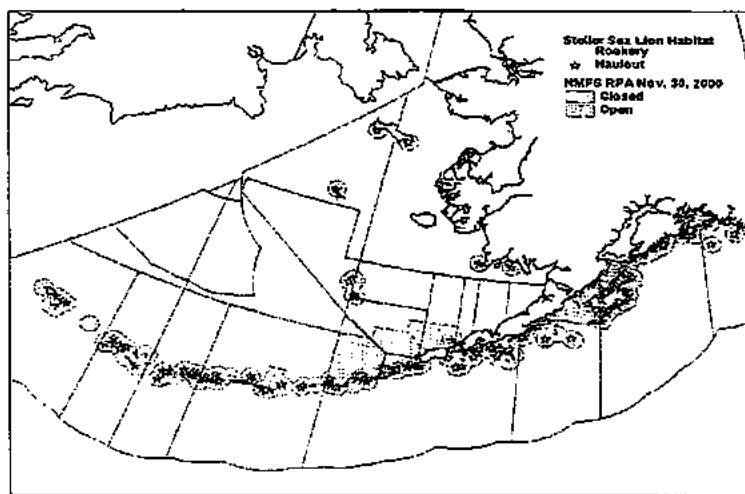
MSFCMA Mandates

- 10 National Standards
 - Prevent overfishing and achieve OY, Best scientific information, stock unit management, non-discriminatory, efficiency, variability, minimize costs, fishing communities, reduce bycatch, promote safety.
- Required Contents of FMPS
- Provisions of Public Law 106-554
 - BiOp RPA to be phased in 2001, and implemented in 2002, but revised as necessary based on independent scientific review and other new information.
 - Council transmits FMP amendment to implement RPA.

RPA Criteria

- at least 50% of CH should be closed to fishing for pollock, cod, and mackerel;
- closures should protect at least 50% of the non-pup population and at least 75% of pups;
- measures should avoid jeopardy (assumes fishery causes decline);
- a monitoring program must be included (2002 and beyond).

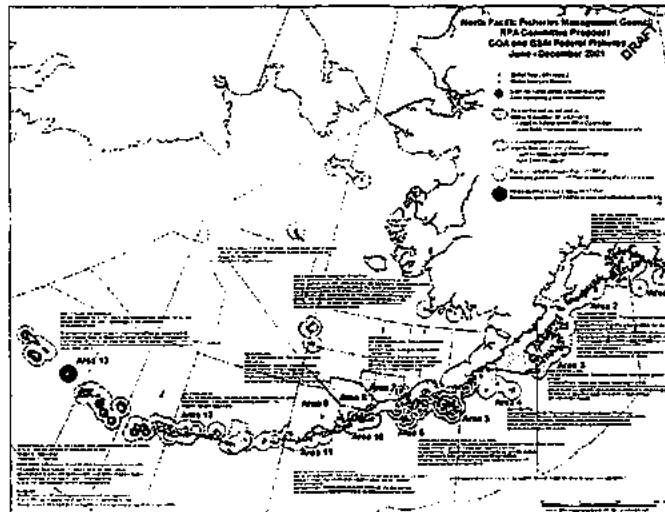
Map of BiOp RPA



Committee Recommendations

- Change season opening dates
 - GOA: change cod to Sept 1 (all gears)
 - BS: change cod longline to Aug 15, and pot to Sept 1, and pollock to June 11.
 - AI: change cod longline to Aug 15, mackerel to Sept 1
- Modify RPA area closures
 - based on NMFS recommendation, using BiOp RPA numbered areas for changes.
- Coordinate efforts with State for 0-3 nm

Recommended Open/Closed Areas



Area 1 (Prince William Sound)

- Sea lion abundance trend: -10% per year.
- Existing RPA rule: Green area.
- Recommendation: Prohibit fishing for pollock, Pacific cod, and Atka mackerel with all gear types within 20 nm of listed rookeries and haulouts.
- Rationale - Sea lions in this area are in the steepest decline of any region. Summer fisheries in this area target salmon. Cod catches in this area are minimal and likely from IFQ halibut bycatch.

Area 2 (North Gulf Coast)

- Sea lion abundance trend: -7% per year.
- Existing RPA rule: Red area.
- Recommendation - Prohibit fishing for pollock, Pacific cod, and Atka mackerel with all gear types in Area 631 and within 20 nm of listed rookeries and haulouts except for Chiniak and Long Island that would be closed only out to 10 nm from October 1- December 31.
 - Exception: Vessels < 60' fishing with fixed gear would be allowed to fish within haulout areas (3-20 nm).
- Rationale - Sea lion decline in this region is high, so large closures were adopted. Telemetry data suggests that sea lions are primarily located within 3 nm of land, and almost always within 10 nm.

Area 3 (Kodiak)

- Sea lion abundance trend: -4% per year.
- Existing RPA rule - Green area.
- Recommendation - No change. Open outside of 3 nm.
- Rationale - These are critically important fishing areas for small vessels using trawl gear for pollock and Pacific cod, hailing from the fishing community of Kodiak. Scat collections in this area during the fall of 1999 showed a highest frequency of occurrence of sandlance, salmon, and arrowtooth flounder (Wynne analysis).

Area 4 (Chignik)

- Sea lion abundance trend: -6% per year.
- Existing RPA rule - Red area.
- Recommendation - No change. Maintain the BiOp RPA that prohibits fishing for pollock, Pacific cod, and Atka mackerel with all gear types in critical habitat within 20 nm of listed rookeries and haulouts.
- Rationale - Sea lion decline in this area is higher than average. Little or no fishing occurs outside of 3 nm.

Areas 5+6 (Sand Point)

- Sea lion abundance trend: -1% per year.
- Existing RPA rule - Area 5 is green, Area 6 is red.
- Recommendation - Prohibit fishing for pollock, Pacific cod, and Atka mackerel with all gear types within 10 nm of listed rookeries and haulouts.
 - Exception: Vessels < 60' fishing with fixed gear would be allowed to fish within haulout and rookery areas (3-20 nm).
- Rationale - The sea lion population here is relatively stable. Telemetry data suggests that sea lions are primarily located within 3 nm of land, and almost always within 10 nm. SSL prey in this area is primarily herring, sandlance, cod, and irish lords (Sinclair analysis)

Areas 10+11(South of Unalaska)

- Sea lion abundance trend: -2% area 10; -3% area 11.
- Existing RPA rule - Both are red areas.
- Recommendation - Prohibit fishing for pollock, Pacific cod, and Atka mackerel with all gear types in critical habitat within 20 nm of listed rookeries and haulouts.
- Rationale - This area is not a critical fishing area for cod and pollock fishing in the second half of the year.

Area 7 (Unimak)

- Sea lion abundance trend: + 3% per year.
- Existing RPA rule - Green area.
- Recommendation - Prohibit fishing for pollock, Pacific cod, and Atka mackerel with all gear types within 10 nm of listed rookeries and haulouts, otherwise all of area 7 remains open with no SCA catch limits for pollock.
- Rationale - The sea lion population is increasing in this area. Telemetry data suggests that sea lions are primarily found within 10 nm of land. Scat analysis indicates that SSL eat a wide variety of prey in this area.

Area 8 (Dutch Harbor)

- Sea lion abundance trend: +7% per year.
- Existing RPA rule - Red area.
- Recommendation - Prohibit fishing for pollock, Pacific cod, and Atka mackerel with all gear types within 10 nm of listed rookeries and haulouts, otherwise all of area 8 remains open without CH limits for pollock, except that: four Pribilof haulouts would remain open outside 3 nm, and five northern haulouts would be closed out to 20 nm.
 - Exception: Pot vessels, and vessels < 60' fishing with fixed gear would be allowed to fish within haulout and rookery areas (3-20 nm).
- Rationale - The sea lion population is increasing at about the maximum recovery rate. Sea lions have not been counted on the four Pribilof haulouts since 1961. The northern haulouts are not major fishing areas.

Rationale for allowing pollock fishing in SCA without CH harvest limits

- Sea lion counts are increasing in areas 7 and 8.
- Sea lions in areas 7 and 8 eat a wide variety of prey in the summer and early fall: mainly salmon, herring, pollock, sand lance, and mackerel.
- Telemetry data show that sea lions remain very close to shore, with 60-75% within 2 miles, and 85-92% inside 10 miles from the shore.
- Current regulations prohibit pollock fishing inside the CVOA by the catcher/processor sector which has 40% of the pollock TAC.
- Salmon bycatch will be higher if the fleet pushed outside of SCA.
- Safety issue for smaller catcher vessels in fall.
- There are 8 to 15 times more pollock available per sea lion today, than when sea lions were abundant.
- Many other reasons, including reduced product quality, increased costs, existing closures of Bogoslof and Pribilofs, and that this is just for the second half of 2001.

Prey availability in SCA under RPA Committee recommendation

2001 EBS pollock biomass	10,060,000	
ABC	1,842,000	
TAC	1,400,000	
proportion biomass in SCA	0.124	(estimated from NMFS summer survey - S. Capron pers. com.)
SCA biomass	1,247,440	
SSL forage needs	534,798	(calculated using the same methodology as BiOp Appendix 3)
<u>surplus biomass</u>	<u>712,642</u>	(excess pollock biomass not needed for SSL foraging)
<u>c/v catch</u>	<u>433,440</u>	
<u>surplus</u>	<u>279,202</u>	(biomass after forage needs and maximum fishery removals)
<u>c/v catch w/CDQ</u>	<u>517,440</u>	
<u>surplus</u>	<u>195,202</u>	(biomass after forage needs and maximum fishery removals)

Area 9 (Bogoslof)

- Sea lion abundance trend: -4% per year.
- Existing RPA rule - Red area.
- Recommendation - No change. Maintain the BiOp RPA that prohibits fishing for pollock, Pacific cod, and Atka mackerel with all gear types in this entire area.
- Rationale - Bogoslof has been closed for the past 10 years for pollock fishing. Mackerel and cod fishing occurs here.

Areas 12+13 (Aleutians)

- Sea lion abundance trend: -2% in area 12, -7% in area 13.
- Existing RPA rule - Area 12 is green, Area 13 is red.
- Recommendation: In addition to the the pollock fishery closure and current closure areas (10 nm rookery and 3 nm haulouts), 20 nm closures would be implemented for pollock, mackerel, and Pacific cod using all gear types around the listed areas known as Agligadak (in area 12) and Buldir (in area 13).
- Atka mackerel- West of 178° west longitude: keep open to mackerel fishing, but with closures as per NMFS Table 21 from regulations. East of 178° west longitude: close to all mackerel fishing inside CH.
- Pacific cod TRAWL: West of 178° west longitude: close to all Pacific cod fishing inside CH. East of 178° west longitude: keep open to Pacific cod fishing, but with closures as per NMFS Table 21 from regulations. Seguam foraging area would remain closed.
- Pacific cod FIXED GEAR: In both areas 12 and 13, allow fixed gear vessels to fish within CH outside of 3 nm. Seguam foraging area would remain closed.

Areas 12+13 (Aleutians)

- Rationale - Steep declines of SSL at Agligadak (-16%) and Buldir (-13%) prompted 20 nm closure of these areas to all gear types. Other nearshore areas are also protected by current closure areas, because telemetry data suggests that sea lions are primarily located within 3 nm of land, and almost always within 10 nm. The division of the AI for cod and mackerel fisheries allows for reduced removals throughout the area. The AI fixed gear fisheries are thought to be dispersed and have lower removal rates than trawl gear.

Summary of RPA Protection

<u>Criteria</u>	<u>BiOp</u>	<u>Committee</u>
≥ 50% CH	66%	57%
≥ 50% non-pups	56%	80%
≥ 75% pups	74%	80%

Upcoming Meeting Schedule

- April 17-19 in Anchorage (cancelled)
- May 9-11 in Juneau
 - at the NMFS Conference Room, starting at 10 am
- May 21-24 in Seattle
 - at the AFSC Building 4, starting at 1 pm



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

AGENDA C-2
APRIL 2001
Supplemental

April 6, 2001

David Benton, Chairman
North Pacific Fishery Management Council
605 West 4th, Suite 306
Anchorage, Alaska 99501-2252

RE: Council Action Necessary to Support Research Measuring
Fishery Effects on Pollock Schools on the East Side of Kodiak
Island

Dear Dave,

The North Pacific Fishery Management Council's (Council's) "RPA" Committee's March 26-26 recommendations for 2001 Steller sea lion protection measures support a 20 nm buffer zone in the North Gulf Coast (Area 2) region around the Cape Chiniak and Long Island haulouts during the pollock C season. We request the Council to consider extending the buffer zone in the region of Chiniak Gully to accommodate a four year experiment designed by the Alaska Fisheries Science Center (AFSC). AFSC staff presented preliminary results of this experiment to the Council at the Council's February 2001 meeting. The experiment is designed to measure the effects of fishing on the distribution and abundance of walleye pollock on the east side of Kodiak Island. The survey design calls for comparable treatment (fished) and control (unfished) sites. Initially, we would include the summer closure of the Chiniak Gully in the emergency rule implementing Steller sea lion protection measures for the second half of 2001, but we request that the Council consider this closure for the remaining 3 years of research under subsequent rulemaking.

To maintain the integrity of the survey design, we request that no trawling be authorized in those parts of the Cape Chiniak and Long Island haulout buffer zones depicted in Figure 1 and that the trawl closure be extended to encompass the entire Chiniak Gully. Last year, the Council had endorsed this closure to support the 2000 research season, however, the court injunction that prohibited trawling in Steller sea lion critical habitat prevented us from carrying out the research as planned. As a result, we terminated the rulemaking process to implement the 2000 closure of the Chiniak Gully.


The "RPA" Committee's recommendation would prohibit directed fishing for pollock and Pacific cod within 20 nm of the Cape Chiniak and Long Island haulouts north of a line connected by the following 2 points: 57°31'3"N 152°17'48"W and 57°24'36"N 151°40'29"W. We request an extended closure to all fishing with



trawl gear within the area bounded by the following 4 points: 57°39'10"N 151°31'12"W, 57°13'12"N 150°38'25"W, 56°58'52"N 151°16'26"W, and 57°27'28"N 151°56'33"W (Figure 1). We request that this closure be effective from August 1st to a date no later than September 20th during the years 2001 to 2003.

The closure of the entire Chiniak Gully is necessary to account for the potential movement of pollock within this area. Based on their preliminary results, AFSC staff believe that the pollock in Chiniak and Barnabas gullies represent separate concentrations of fish, somewhat restricted by topographical features. Movement along the long axis of each gully is likely to occur. Therefore, if only part of Chiniak gully were closed it would be difficult to distinguish the influence of natural variability on observed changes in the closed versus open areas within the gully (Figure 2). That is, some fish within the control (unfished) gully would be exposed to fishing which would compromise the proposed experimental design and confound interpretation of the results.

Sincerely,


for James W. Balsiger
Administrator, Alaska Region

Attachment

cc: Jim Coe, AFSC
Anne Hollowed, AFSC

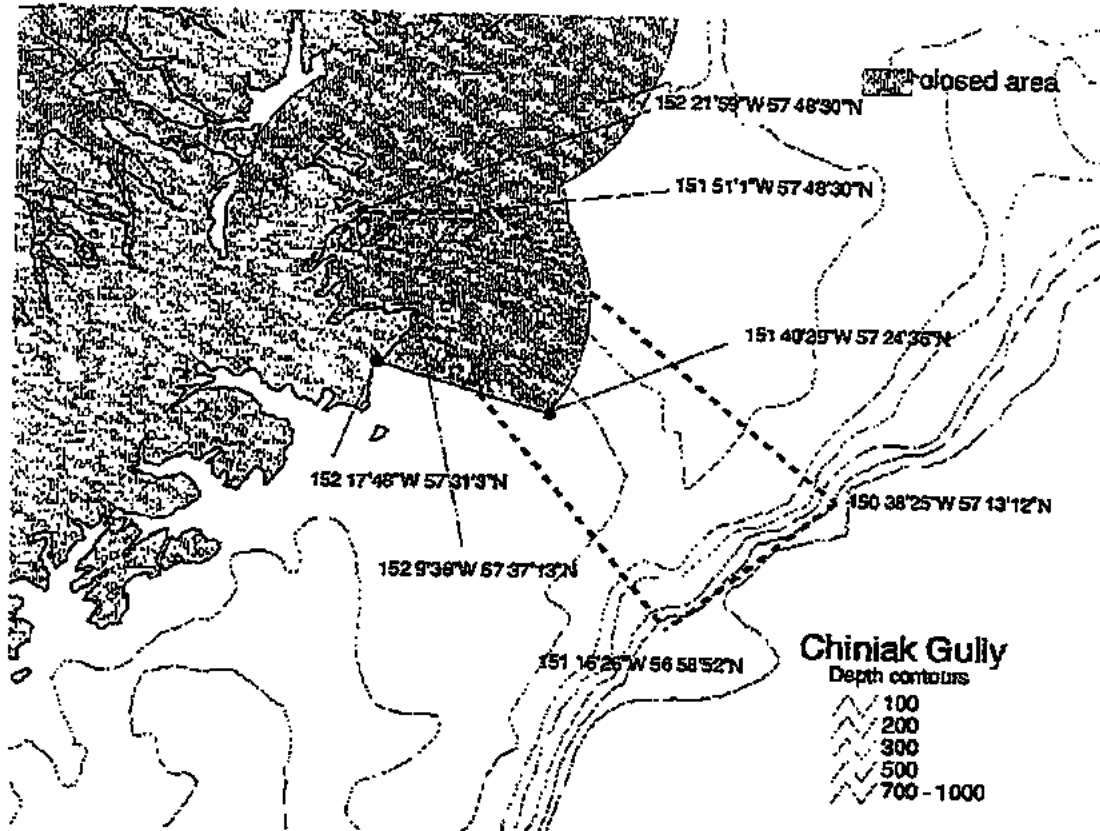


Figure 1. Map of the requested no-trawl closed area (outlined by thick dashed line) in relation to the North Gulf Coast RPA closed area (shaded).

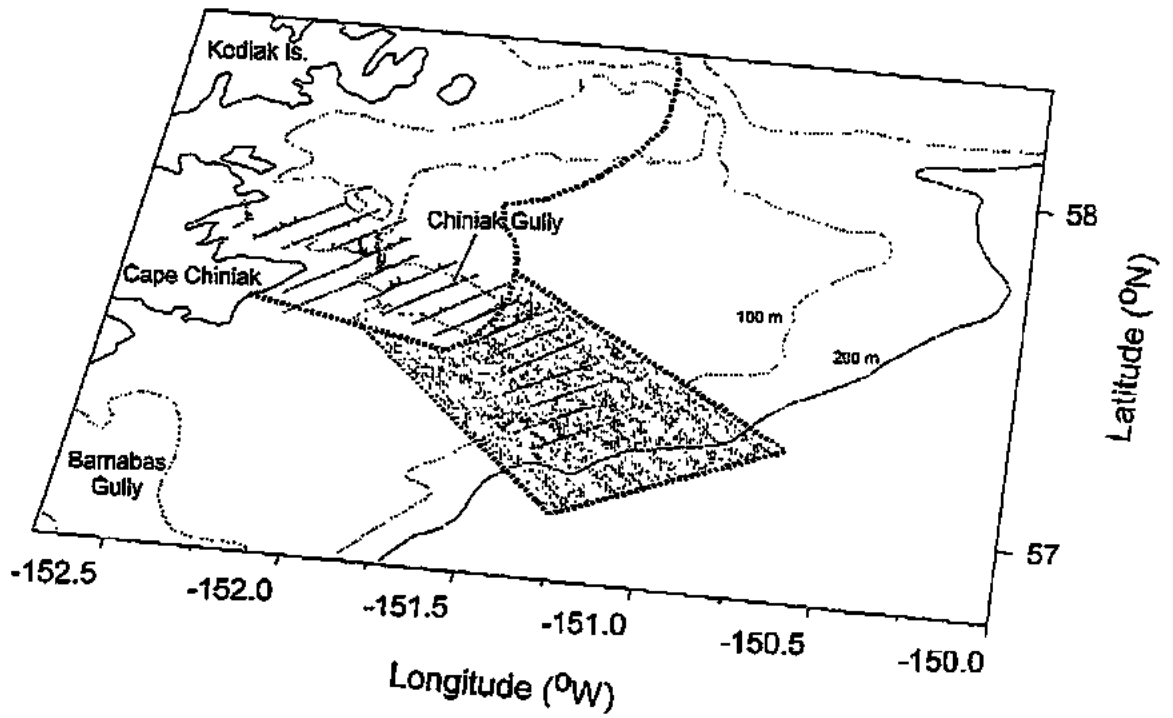


Figure 2. Proposed North Gulf Coast RPA closed area (unshaded heavy dashed line) and AFSC-requested closed area (gray shading) with acoustic backscatter attributed to "adult" pollock along trackline during pass 1 of the August, 2000 acoustic-trawl survey of walleye pollock off the east side of Kodiak Island, Gulf of Alaska, MF2000-10.

C-2 Supplemental
April 2001

**Alaska Steller Sea Lion Harvest:
Opportunities in Large Ecosystem Studies**

Summary Report To:

**Pribilof Islands Marine Mammal Commission
and
Ecosystem Conservation Office, Tribal Government of St. Paul**

From:

**Alan M. Springer
Institute of Marine Science
University of Alaska Fairbanks
Fairbanks, AK 99775**

January 7, 2001

Background

The western stock of Steller sea lions in Alaska was listed as Endangered under the Endangered Species Act in 1997, following a decline of approximately 80% in abundance in the past 20-25 years. The western stock is defined as all sea lions west of 144° W. longitude, or west of about Kayak Island in the eastern Gulf of Alaska. Historically, this population numbered about 250,000, while today it is only about 40,000. The decline was greatest from the late 1970s through the late 1980s, and has persisted at a slow, but continuing, rate since then. The cause of the decline is not known, but there are currently three leading theories: climate change that reduced the availability of important species of prey, such as capelin; commercial fishing that reduces the availability of important prey such as pollock; and predation by killer whales. Other factors, such as pollution, disease, entanglement in fishing gear, and shooting by fishermen and other people, are not considered to have been important as causes of the decline.

This project began in 1993 as a way to obtain information on sea lions at the Pribilof Islands. In recent years, a few sea lions from other areas have been sampled. There are many kinds of important data that can be obtained only from dead animals, which makes the biosampling program a valuable contribution to the full range of studies underway on sea lions in Alaska.

Summary of Results

Samples obtained

I have obtained samples from 145 Steller sea lions, the majority of which have come from St. Paul (Table 1). In addition, I have obtained samples from six other species of marine mammals.

Table 1. Numbers of marine mammals sampled during this study.

Location	Steller sea lion	California sea lion	Fur seal	Harbor seal	Bearded seal	Walrus	Killer whale
St. Paul	105	1	21	1			
St. George	29				1	3	1
Adak	1						
Amlia	1			2			
Atka	1						
Unalaska	1						
Old Harbor	1						
Tatitlek	4						
Yakutat	1						
Angeon	1						
Total	145	1	21	3	1	3	1

Most of the samples were taken from harvested animals, but some were taken from ones that died of unknown causes and washed ashore. The samples have included the following parts, not all of which were obtained from each animal.

- **Head** The head provides several kinds of samples and information on the animal, including:
 - Teeth for aging.
 - Whiskers for studies of diet using stable isotope analysis. Whisker are typically 1-3 years long, and by analyzing short sections along the length, a record of diet information spanning that full time can be obtained. The method cannot identify particular species in the diet, but can provide other information on food webs, trophic position, and ecosystem change
 - Muscle tissue for genetic studies.
 - The skull for growth and for confirming the sex when this is not recorded.
 - Pituitary glands for studies of endocrinology.
- **Stomach** Stomach contents provide the best information on diets. This is a unique opportunity to understand details of diet not possible with other current methods, including the numbers and sizes of prey consumed. This is of particular importance when evaluating relationships between sea lion prey and fishes taken by commercial fisheries.
- **Colon contents** Hormones contained in feces are indicators of physiological stress. The contents are also used to estimate diet for comparison to stomach contents: this helps in the interpretation of diet information obtained from scats collected at haulouts and rookeries throughout the range of sea lions.
- **Blubber** The pattern of fatty acids in blubber provides information on diet averaged over an interval of about one month. This provides important additional information to that obtained from stomach contents.
- **Liver, kidney, and blubber** These samples are analyzed for environmental contaminants.
- **Tibia and fibula** These bones are used for growth studies.

Pribilof sea lion ages and sex

The aging of sea lions is still underway. However, it is apparent that the majority of animals harvested at St. Paul are juvenile males ranging in age between yearlings and 4 year-olds. Hunters have occasionally taken females and adult males have occasionally washed up on shore. A greater proportion of juvenile females has been taken at St. George than at St. Paul. Aging of all animals should be completed within 1-2 months, and a supplement to this report detailing the complete data will be provided to PIMMC.

Pribilof sea lion diets

Sea lions at the Pribilofs eat a variety of fish and crabs, including:

Pollock	Irish lord	Octopus	Pacific sandfish
Pacific cod	Herring	Smooth lumpsucker	Crabs
Halibut	Salmon	Squid	Skate
Rock sole	Yellowfin sole	Atka mackerel	

The diet at St. Paul changes between spring and fall (Fig. 1). In spring the diet is dominated by pollock, with flatfish and other species being important in some years. In fall, however, pollock is not common, but is replaced by Pacific cod, flatfish, and other species. This pattern appears to have been common since the 1970s. The high abundance of flatfish in fall 1998 may have resulted from the unusually warm water temperatures in the prior summer and its effect on fish distributions. A high consumption of octopus in fall 1998 and 1999 made the 'Other' category the largest in those years.

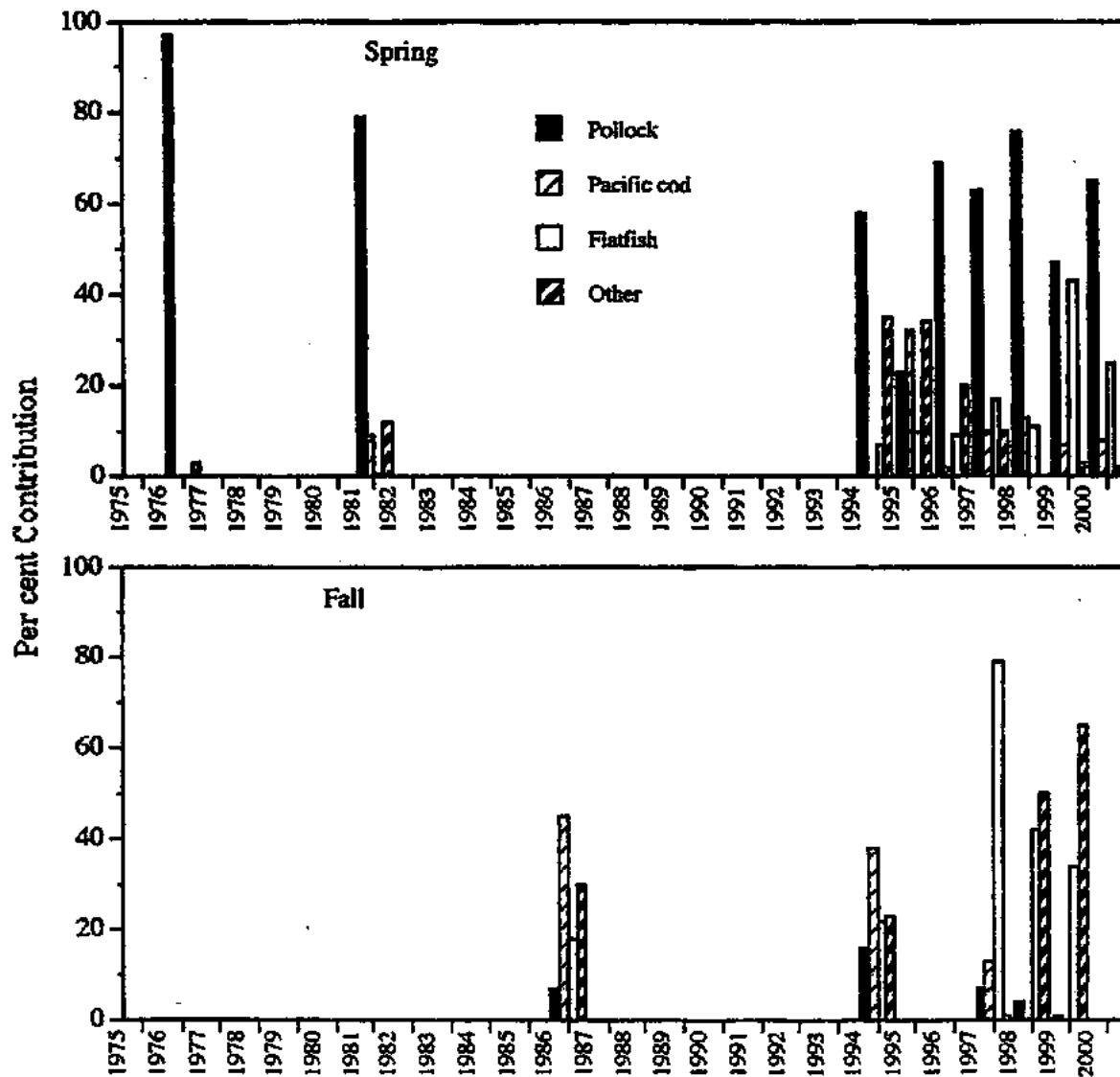


Figure 1. Diet of sea lions at St. Paul. Data from 1994–2000 are from this study. Data from 1976 and 1986 are from T. Loughlin (NMFS) and L. Lowry (ADFG). Data for 1981 are from sea lions taken from the ice edge northwest of St. Paul (D. Calkins, ADFG).

The small number of sea lions obtained from St. George, plus the fact that several had empty stomachs and others were pups with only milk in their stomachs, makes it difficult to confidently compare diets between the two islands. Based on the samples I have obtained so far, it appears that sea lions at St. George consume fewer pollock and more species in the 'Other' category' (Fig. 2). These include primarily Atka mackerel and octopus. Atka mackerel have not been recorded in any sea lions at St. Paul.

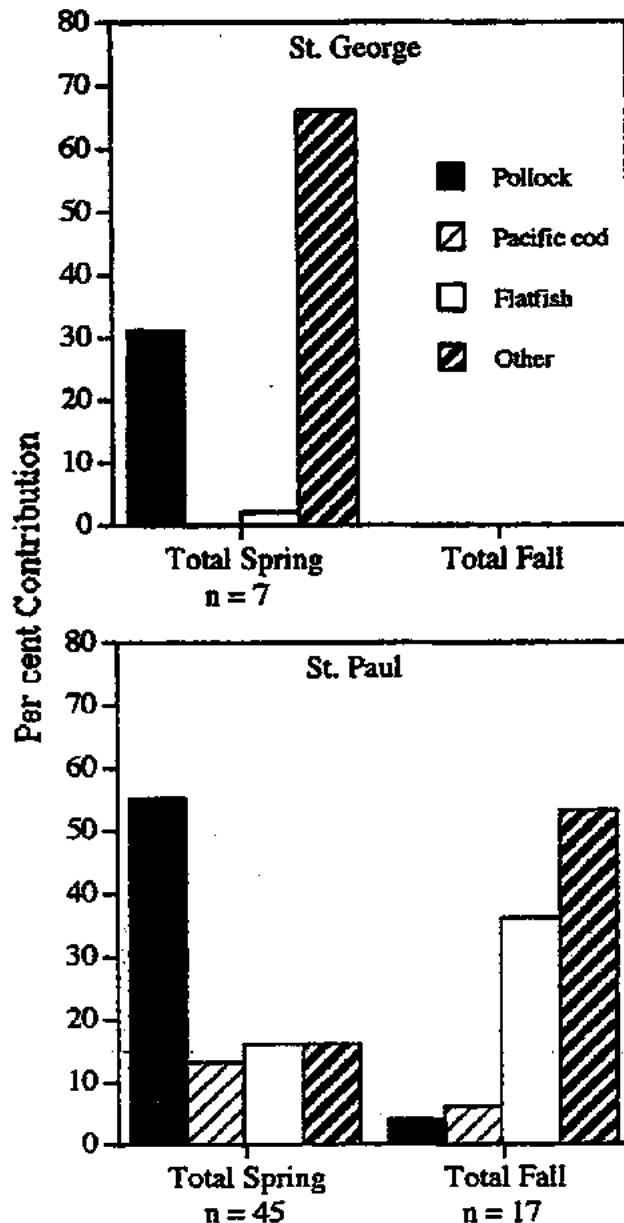


Figure 2. Comparison of diets at St. Paul and St. George.

Pribilof sea lion prey characteristics

Most of the prey consumed by sea lions at the Pribilofs are large. For example, most pollock are of commercial size (Fig. 3). Younger sea lions take somewhat larger numbers of small pollock, but they contribute comparatively little to the biomass of all pollock eaten (Fig. 4). Likewise, Pacific cod, flatfish, sculpins, and octopus also are generally large individuals.

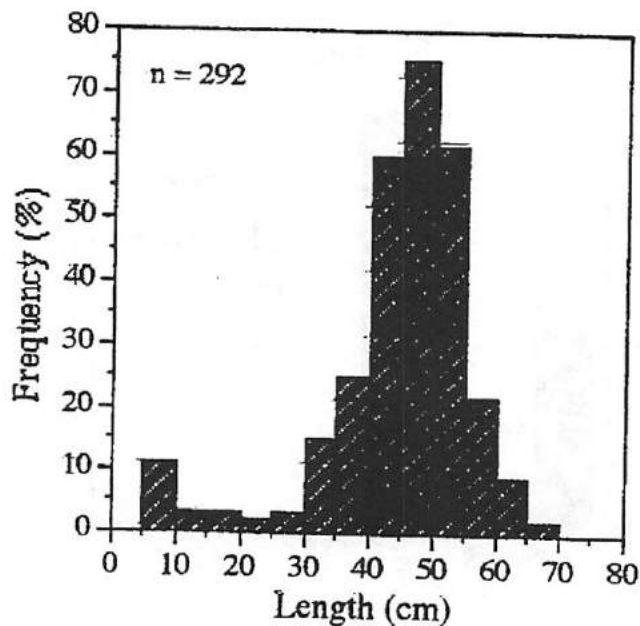


Fig. 3. Length distribution of pollock eaten by sea lions at St. Paul.

Other information

Many of the sea lions around St. Paul probably come from rookeries in the Aleutian Islands. Males do not reach breeding age until they are 6-8 years old. In the meantime, they probably range widely in the Bering Sea. Two juvenile males taken by hunters had been tagged as pups at their natal rookeries (Fig. 5). A third tagged sea lion was seen on Otter Island by Lauri Jemison during studies of harbor seals.

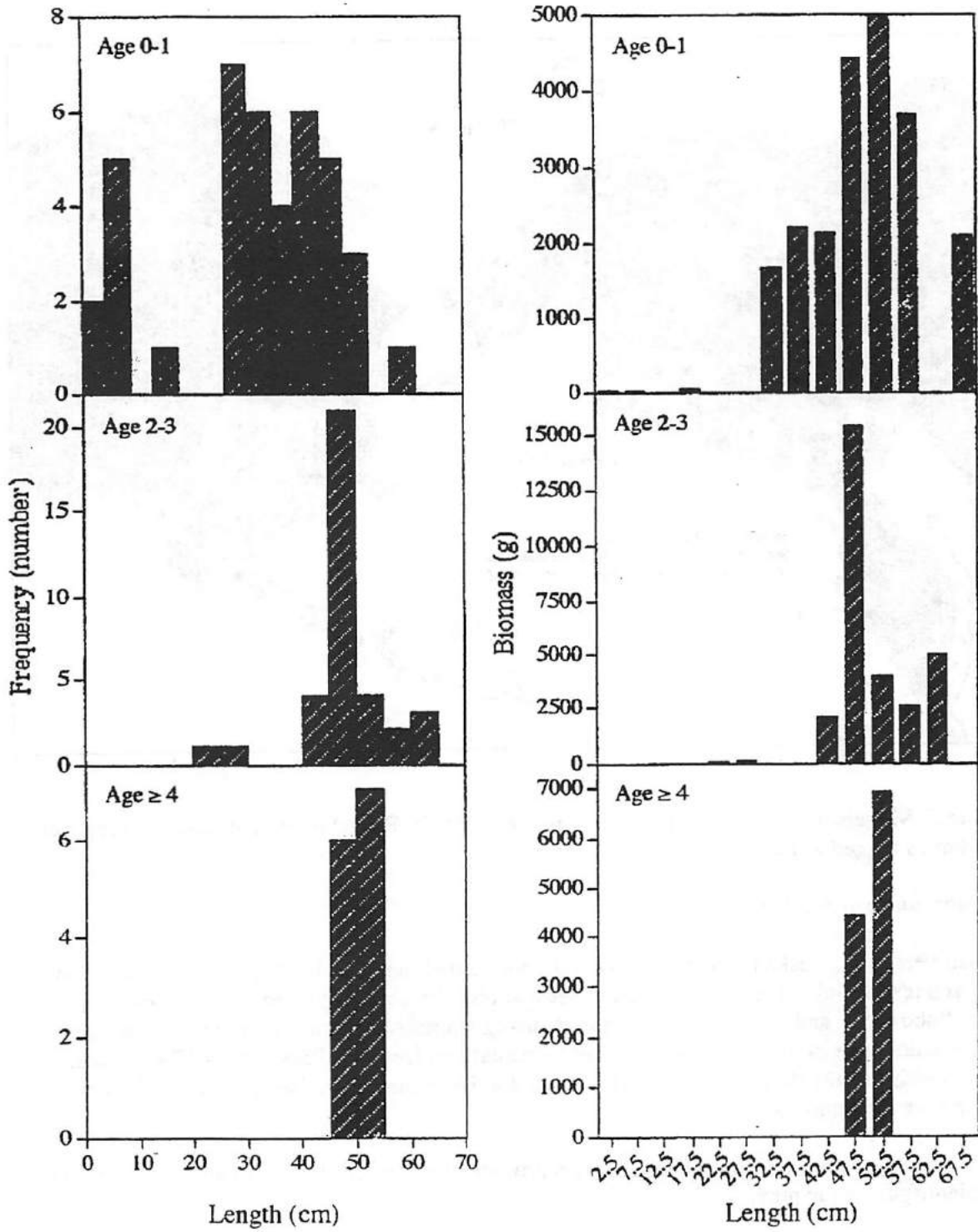


Figure 4. Sizes of pollock consumed by sea lions of different ages. Panels on left show distribution of lengths. Panels on right show contributions of pollock of different lengths to the weight of fish. Although the number of small fish is relatively high in diets of age 0-1 sea lions, they do not contribute much to the biomass of all pollock consumed.

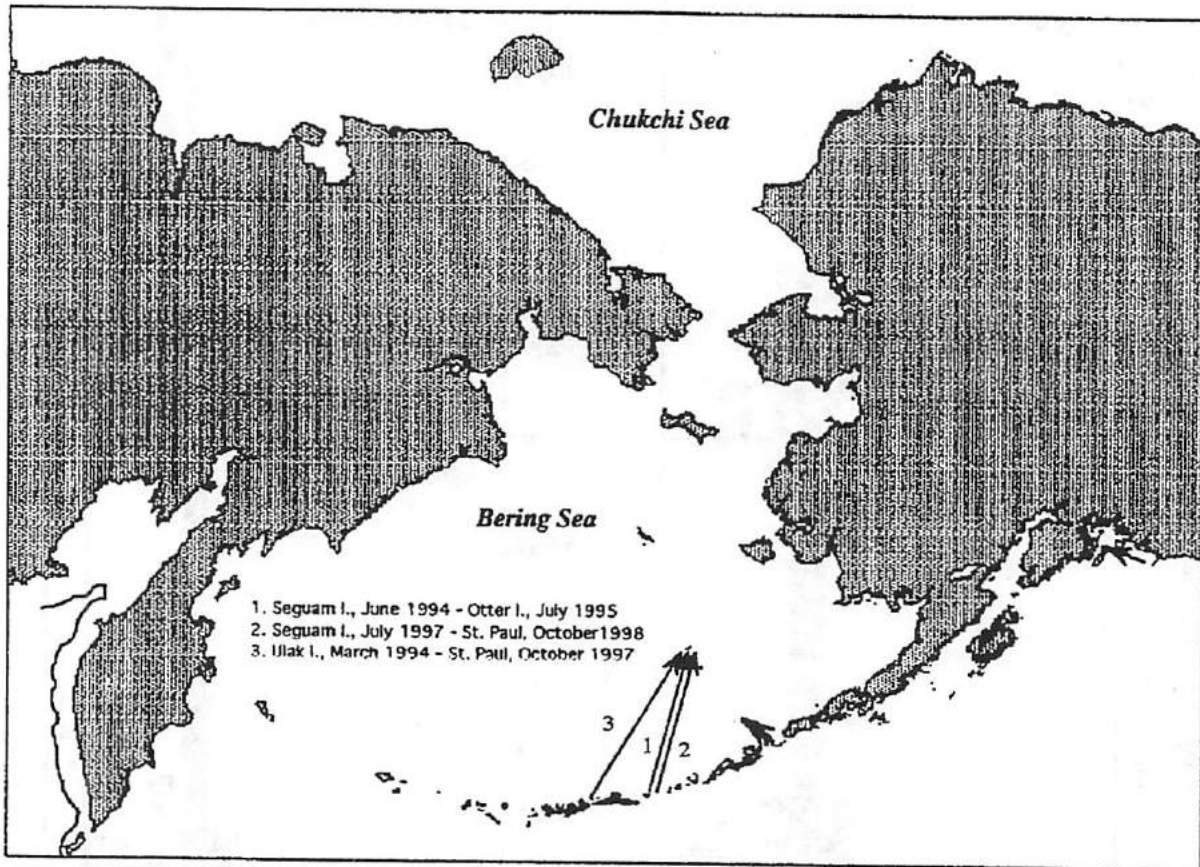


Figure 5. Movement of sea lions from natal rookeries to St. Paul. Movements based on recovery of animals tagged as pups.

Collaborating institutions

- University of Alaska Fairbanks: UAF has coordinated the overall sampling program. I have been responsible for obtaining most of the samples, for the distribution of samples to collaborators, and for the analyses of diets using stomach contents. Other researchers here have done the isotope analyses and hormone analyses from pituitary glands. The Museum has archived the skulls, tibias and fibulas, and a tissue sample in their long-term tissue archive for future uses.
- University of British Columbia: UBC has provided funding for the study and has assisted in identifying some prey.
- Dalhousie University: Researchers there will be responsible for diet analyses using fatty acids.
- University of Washington: Researchers there are undertaking the analyses of stress hormones in colon contents and scats.

- **National Marine Fisheries Service:** NMFS has been responsible for the genetic analyses of samples. Their goal is to be able to distinguish animals from particular regions of Alaska based on genetic profiles. NMFS has also been responsible for analyzing samples for contaminants.
- **Alaska Department of Fish and Game:** ADFG has assisted in aging and in obtaining samples from several animals.

Collaborating programs

Regime Forcing and Ecosystem Response (ReFER): This study is funded by the North Pacific Marine Research Program at UAF. It is comparing aspects of the ecology of seabirds, fur seals, and sea lions at the Pribilofs to Bogoslof I. Participating institutions in the program are UAF, UW, Dalhousie University, NMFS, U.S. Fish and Wildlife Service, and the U.S. Geological Survey (Biological Research Division).

Do Pribilof Island Sea Lions Have Enough to Eat? This study is funded by the Pollock Conservation Cooperative Institute at UAF. It is analyzing sea lion prey for nutritional quality and assessing the levels of stress hormones in scats at the Pribilofs and comparing the data to similar information from the eastern Aleutians. Participating institutions are UAF and UW. Collaborators are NMFS and USFWS.

Plans for the future

The Pribilofs are situated in an ideal location to serve as a focal point of efforts to monitor the Bering Sea. The islands are home to some of the world's largest concentrations of seabirds and marine mammals that are important to the economies and cultural values of residents of the islands, the aesthetic values of many additional people, and to the ecosystem of the Bering Sea. While there are large, ongoing studies of many aspects of the biology of fur seals and seabirds on the Pribilofs, this is the only study addressing sea lions. Sea lions declined on the Pribilofs in parallel with populations throughout the rest of the range of the western stock, and they should serve as a sensitive model for tracking important responses of sea lions to future environmental change. The combined information on all species will provide a much more complete picture of important events in the Bering Sea.

The value of this study will continue to grow with additional years of data. If environmental conditions in the Bering Sea change in a way that causes a shift in the abundance of prey species, it should be apparent in the diets of sea lions at the Pribilofs. If climate change has altered the availability of prey for sea lions and thereby caused the western stock to decline, future changes in climate may reverse the process. If so, the Pribilof sea lions should be early indicators of such change. On the other hand, if climate change is not the cause, modifications in fisheries time and space allocations proposed by NMFS may lead to increases in availability of certain prey species that also will be apparent from diets of sea lions. Thus, I hope to continue this project as a way to monitor the ecosystem from the perspective of sea lions at the Pribilofs.

A current emphasis is to determine if the diet of sea lions on the Pribilofs is sufficient to maintain the animals in good health. There is considerable uncertainty about the value to sea

lions and other marine predators of some prey species, particularly pollock, which have a low fat content compared to other fishes, such as herring and capelin. If sea lions at the Pribilofs are nutritionally stressed, it should be apparent in elevated levels of stress hormones in their scats. Thus, we now place a very high priority on obtaining colon contents of sea lions taken by hunters, as well as on scats from haulouts on both St. George and St. Paul and from the rookery on Walrus I. Data from the Pribilof Islands group will be compared to data from the eastern Aleutians and elsewhere in Alaska, as well as to data obtained from captive sea lions fed known diets of various fish at the Alaska Sea Life Center in Seward and at the University of British Columbia. This information from the Pribilofs, coupled with the excellent diet data obtained from stomach contents, will be valuable in assessing the role of prey quality in sea lion population dynamics.

Acknowledgements

This study would not be possible without the support and cooperation of the sea lion hunters, the Ecosystem Conservation Office of the Tribal Government of St. Paul, the Pribilof Islands Marine Mammal Commission, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and numerous volunteers. I wish to thank you all. Funding for this study has been provided by the North Pacific Universities Marine Mammal Research Consortium.

ADF&G, NMFS, and NPFMC staff prepared these fisheries data for the RPA committee meeting on 3/26/01. The following are examples of the accumulated fisheries data analyzed and are portrayed in attached maps. Effort data displayed in a GIS format- with a range of values of pounds for each ADF&G statistical area due to confidentiality.

Fisheries Data

- Fish ticket data for years 1995-1999 :
June-December time period combined
by the following target: P. cod, Atka mackerel, pollock, all flatfish, all rockfish
by the following gear: trawl, hook and line, pot/jig combined
by vessel length: 1-55 ft, 55-60 ft, 60-125 ft, 125 ft +
Reported by pounds per target fishery and non-target (retained) landings of Atka mackerel, P. cod and pollock.
- Jig fishery was separated out from pot/jig above. Total landings by this gear were combined with all vessels sizes. The chart was made to show distribution of fishery and landing weights in relationship to the proposed June 10, 2001 RPA's.
- The Atka mackerel catcher processor data is from 1995-2000. It is from the North Pacific Groundfish Observer Program data base. No extrapolations are done on catch, only spatial and temporal locations of fleet by target are represented.

Additional types of data available to the committee included:

NMFS Survey data

SSL pup and non-pup abundance, distribution, and trend info (NMML)

Platform of Opportunity (POP) databases

Metapopulations of SSL (NMFS- AnneYork)

SSL scat frequency of occurrence data by site by season (Sinclair and Zeppelin)

Bathymetry data

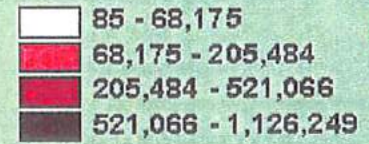
Fisheries Restrictions/Closure areas

Vessel safety database (NMFS)

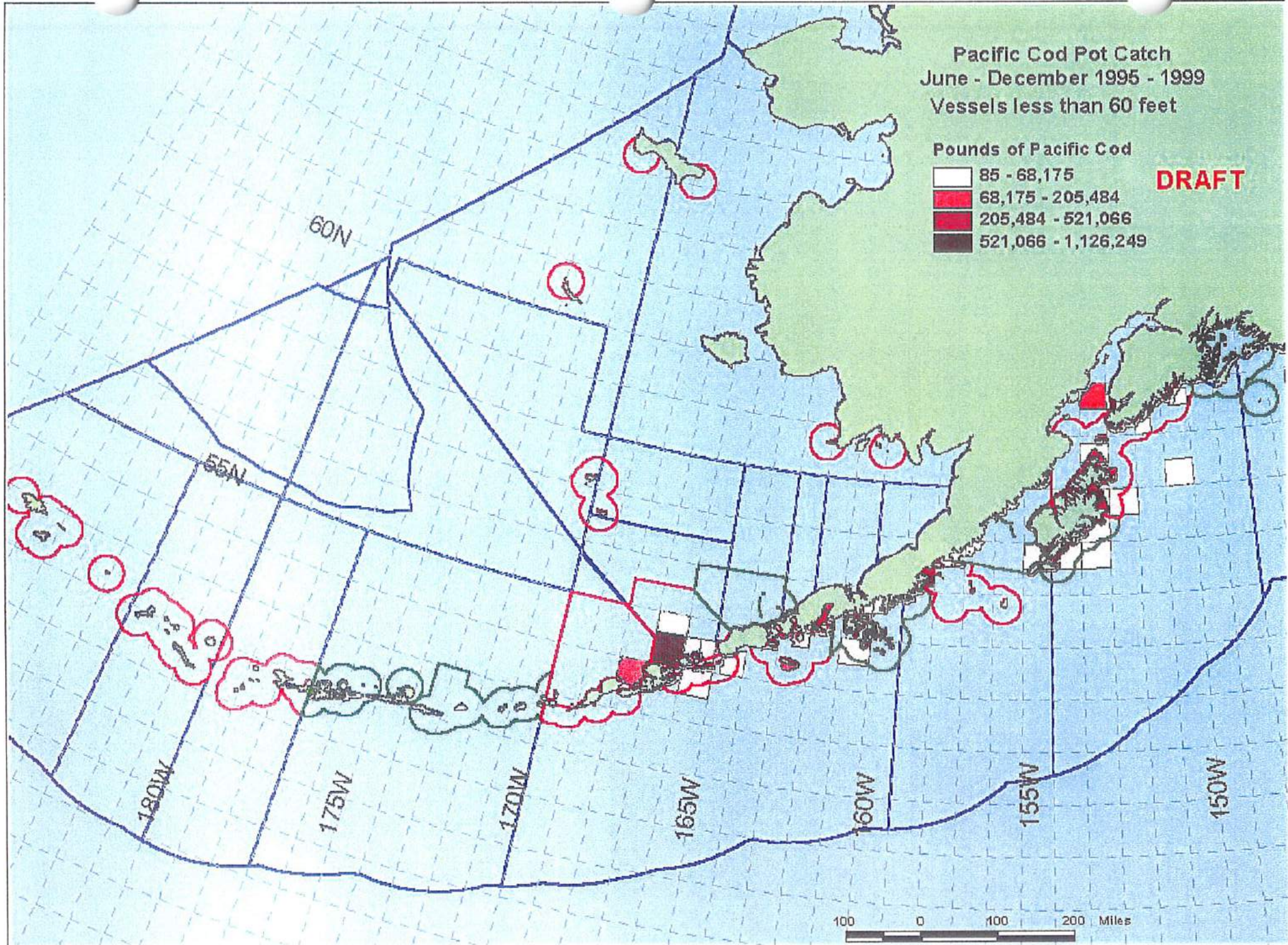
April 7, 2001

Pacific Cod Pot Catch
June - December 1995 - 1999
Vessels less than 60 feet

Pounds of Pacific Cod

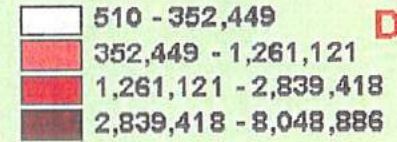


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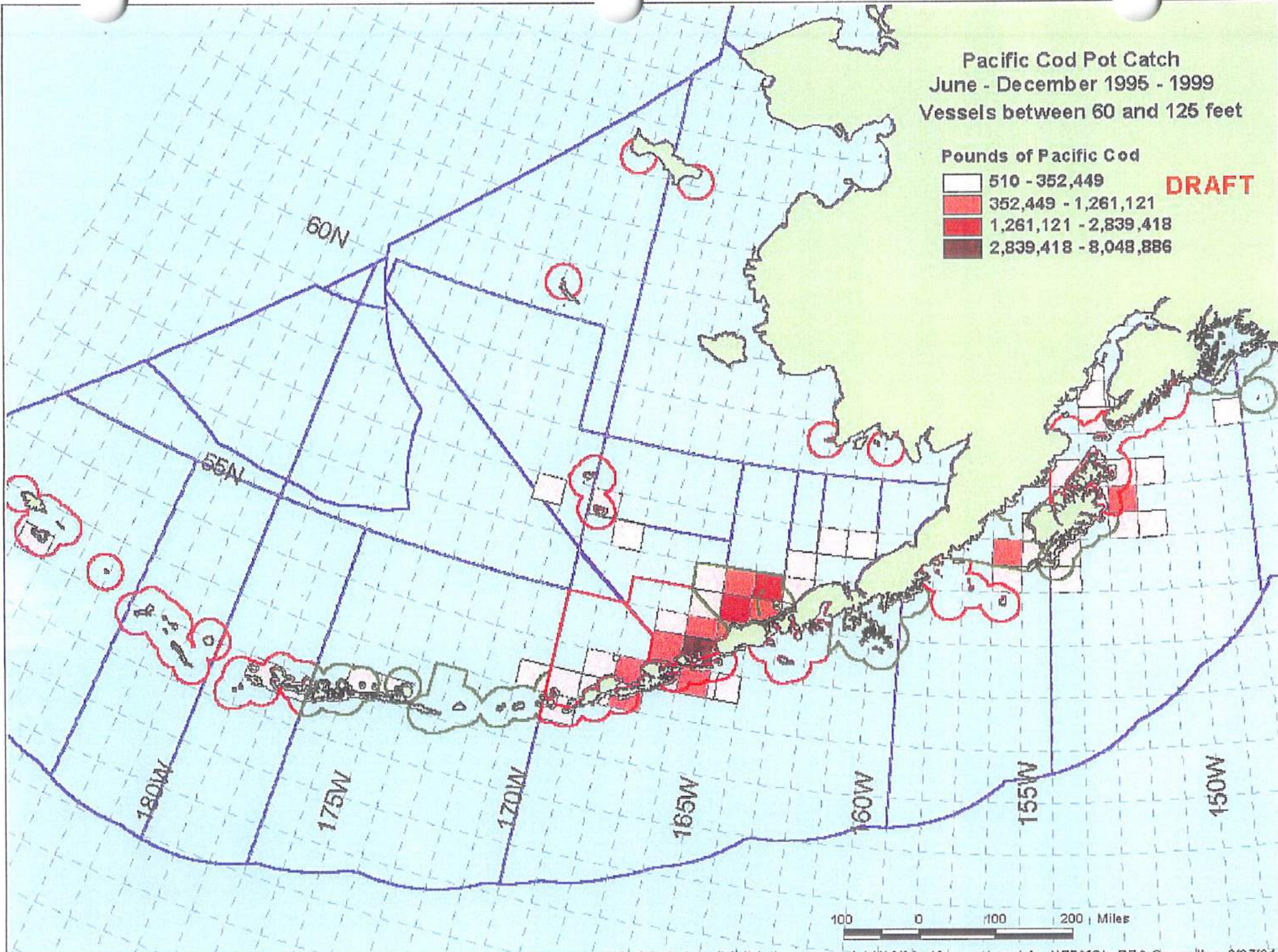


Pacific Cod Pot Catch
June - December 1995 - 1999
Vessels between 60 and 125 feet

Pounds of Pacific Cod

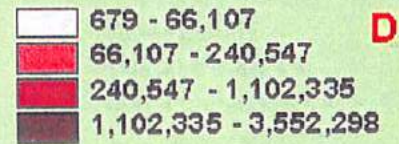


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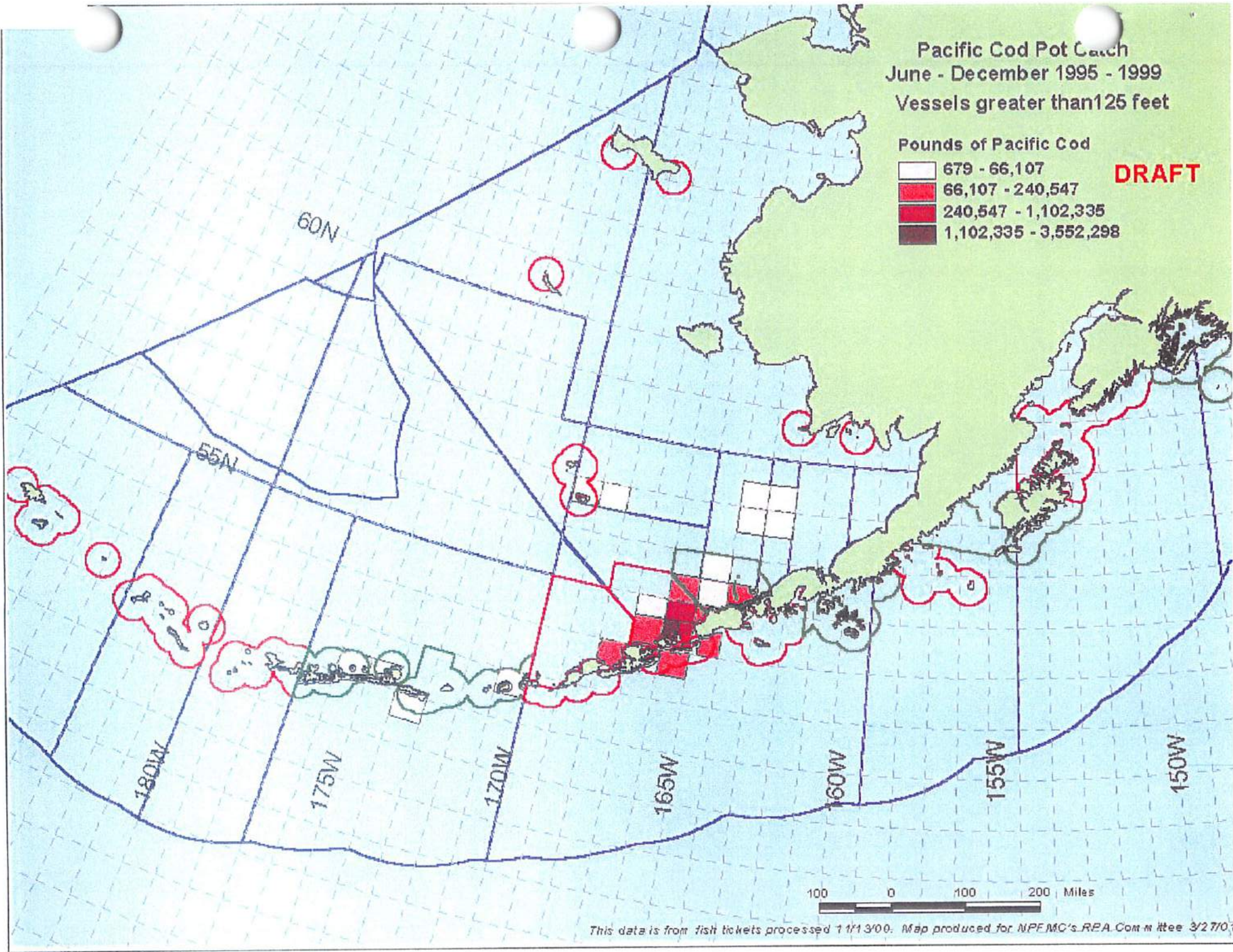


Pacific Cod Pot Catch
June - December 1995 - 1999
Vessels greater than 125 feet

Pounds of Pacific Cod



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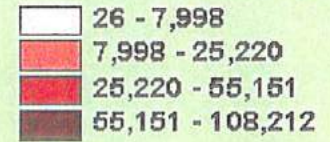


This data is from fish tickets processed 1/1/3/00. Map produced for NPEMC's REA Committee 3/27/01

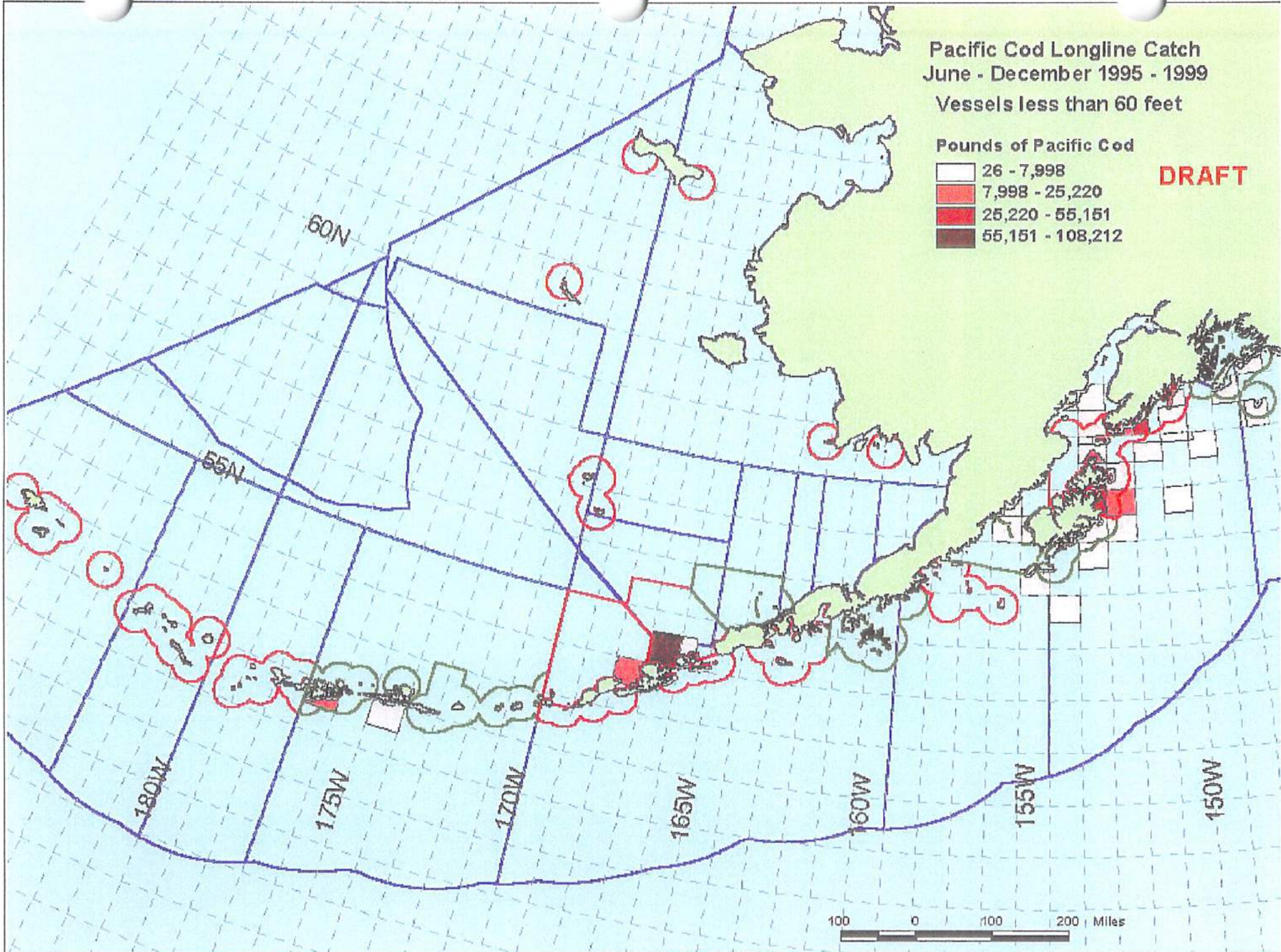
Pacific Cod Longline Catch
June - December 1995 - 1999

Vessels less than 60 feet

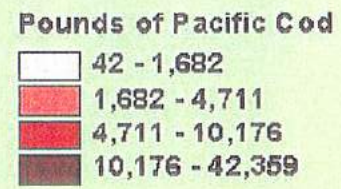
Pounds of Pacific Cod



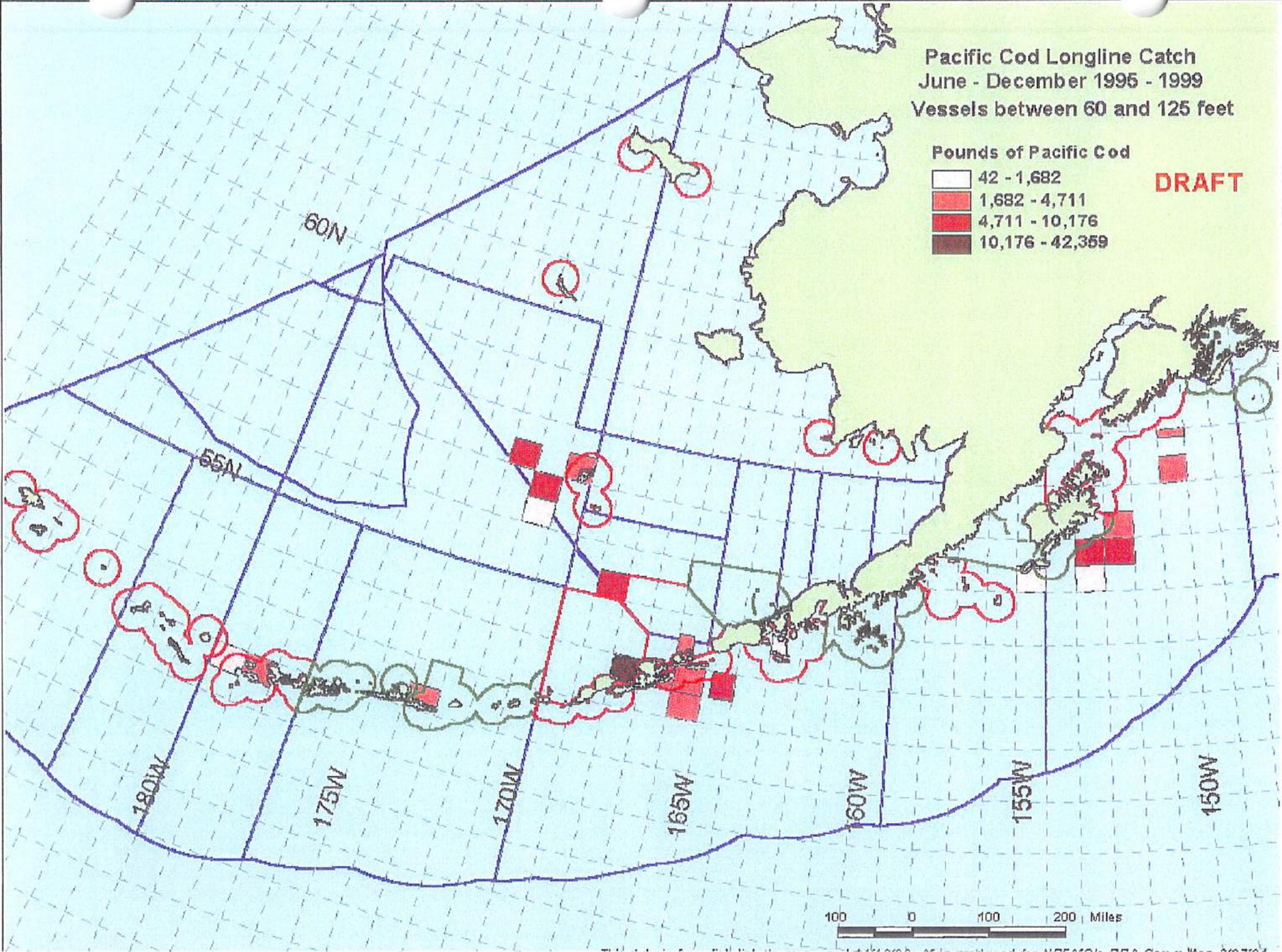
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Pacific Cod Longline Catch
June - December 1995 - 1999
Vessels between 60 and 125 feet

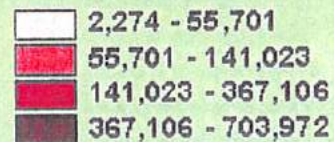


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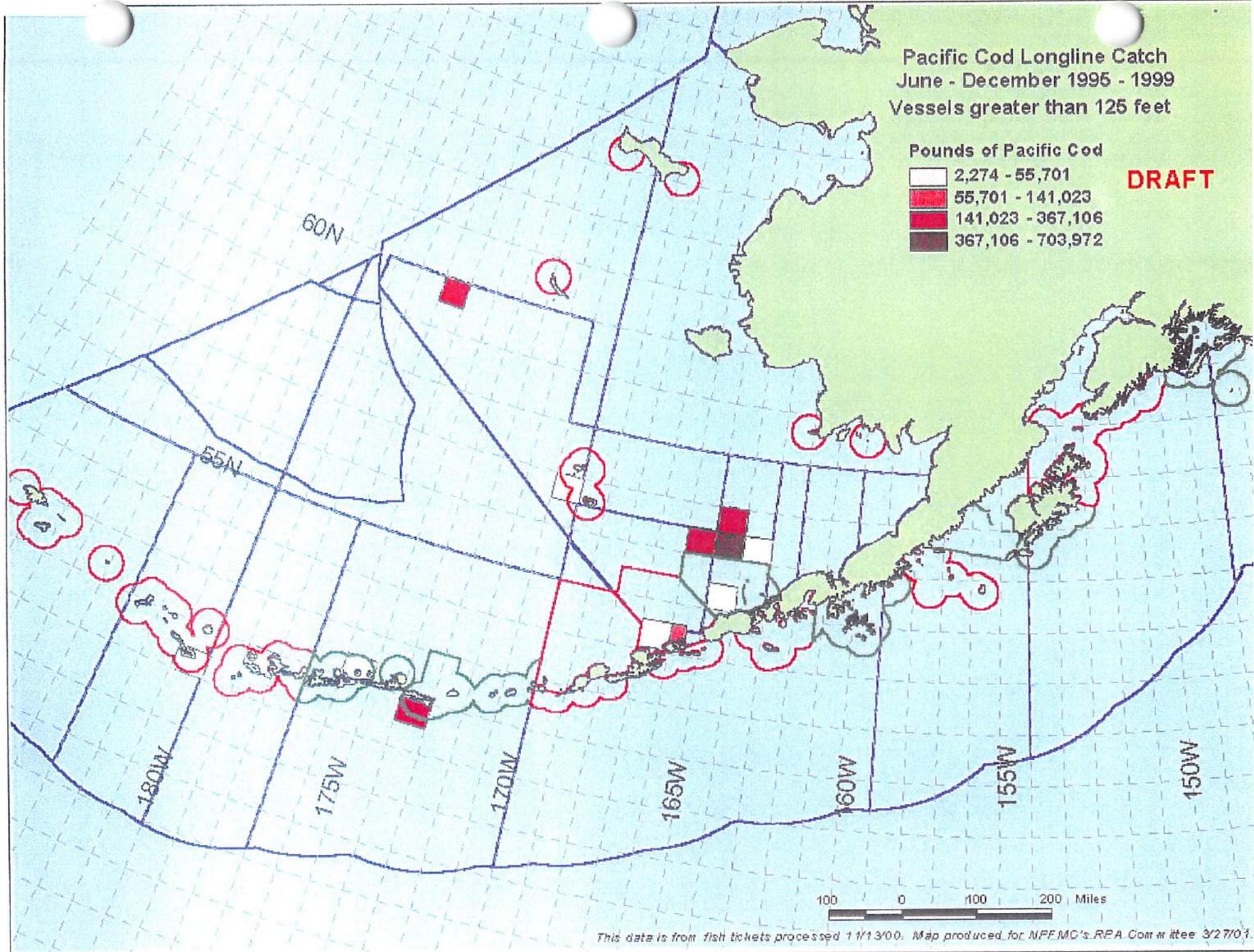


Pacific Cod Longline Catch
June - December 1995 - 1999
Vessels greater than 125 feet

Pounds of Pacific Cod



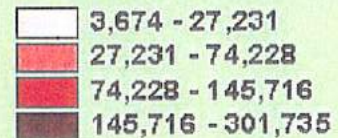
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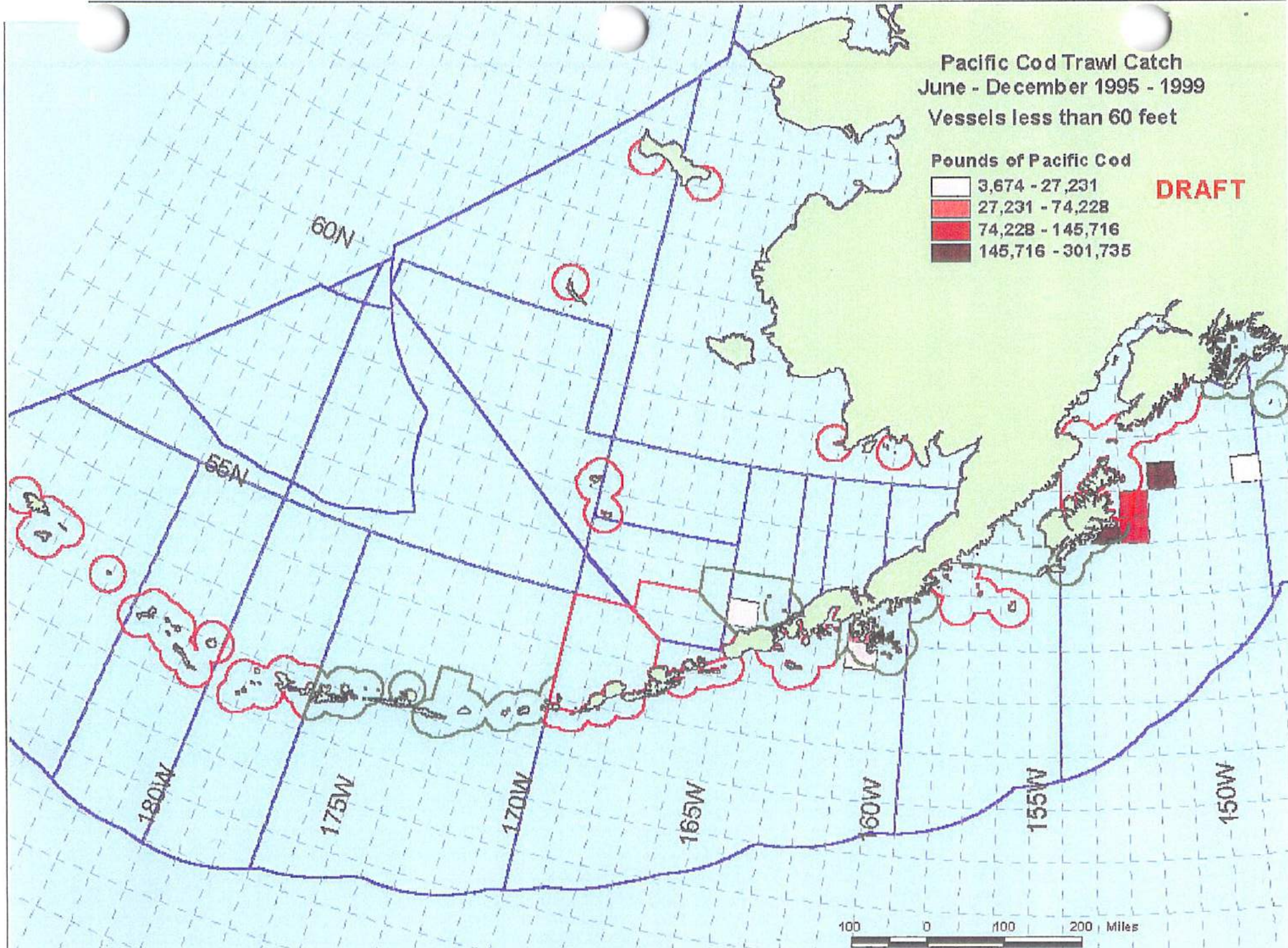
This data is from fish tickets processed 11/13/00. Map produced for MPFMC's RPA Committee 3/27/01.

Pacific Cod Trawl Catch
June - December 1995 - 1999
Vessels less than 60 feet

Pounds of Pacific Cod



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Pacific Cod Trawl Catches
June - December 1995 - 1999
Vessel between 60 and 125 feet

Pounds of Pacific Cod

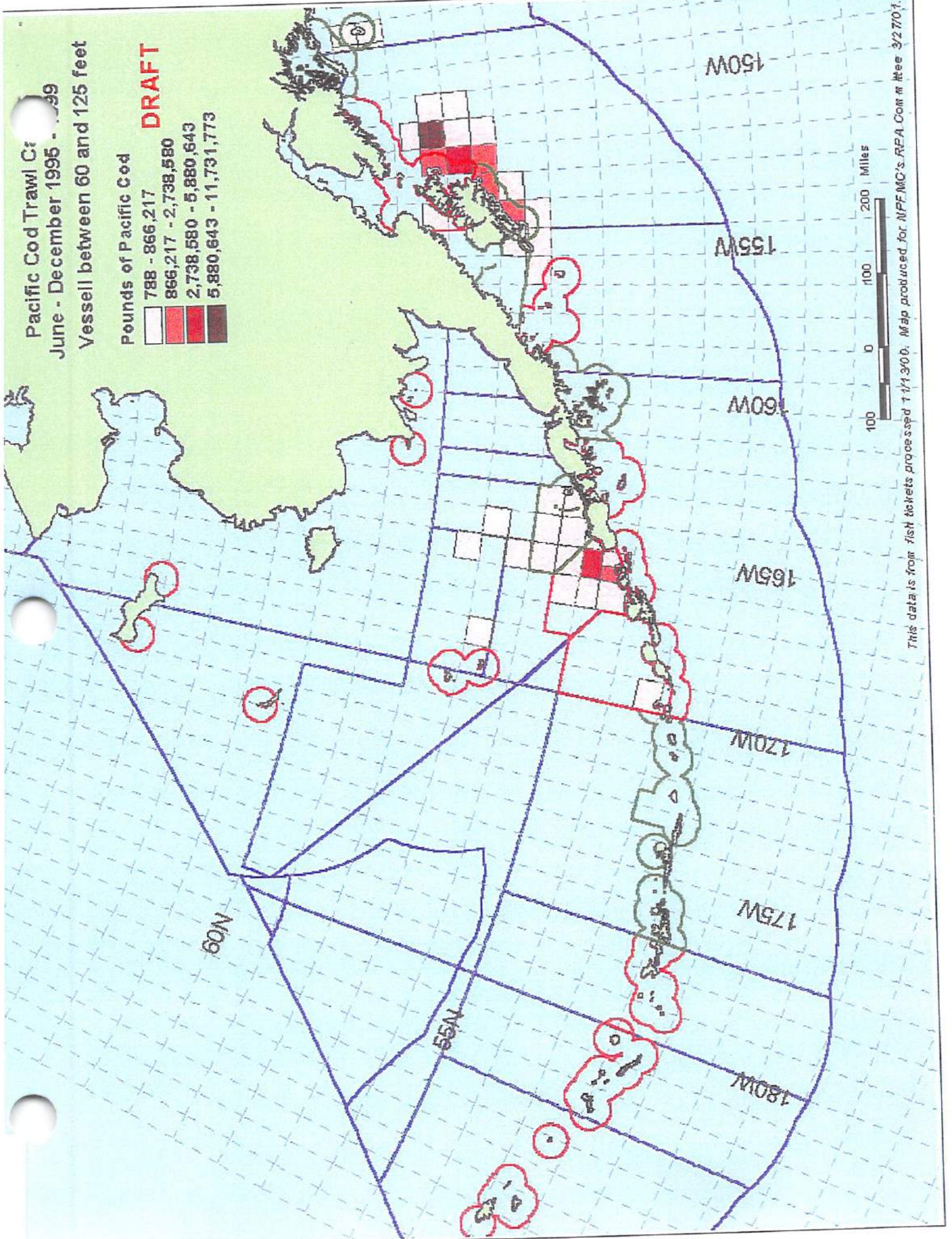
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866,217 - 2,738,580

2,738,580 - 5,880,643

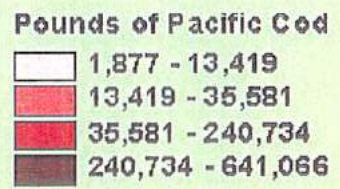
5,880,643 - 11,731,773

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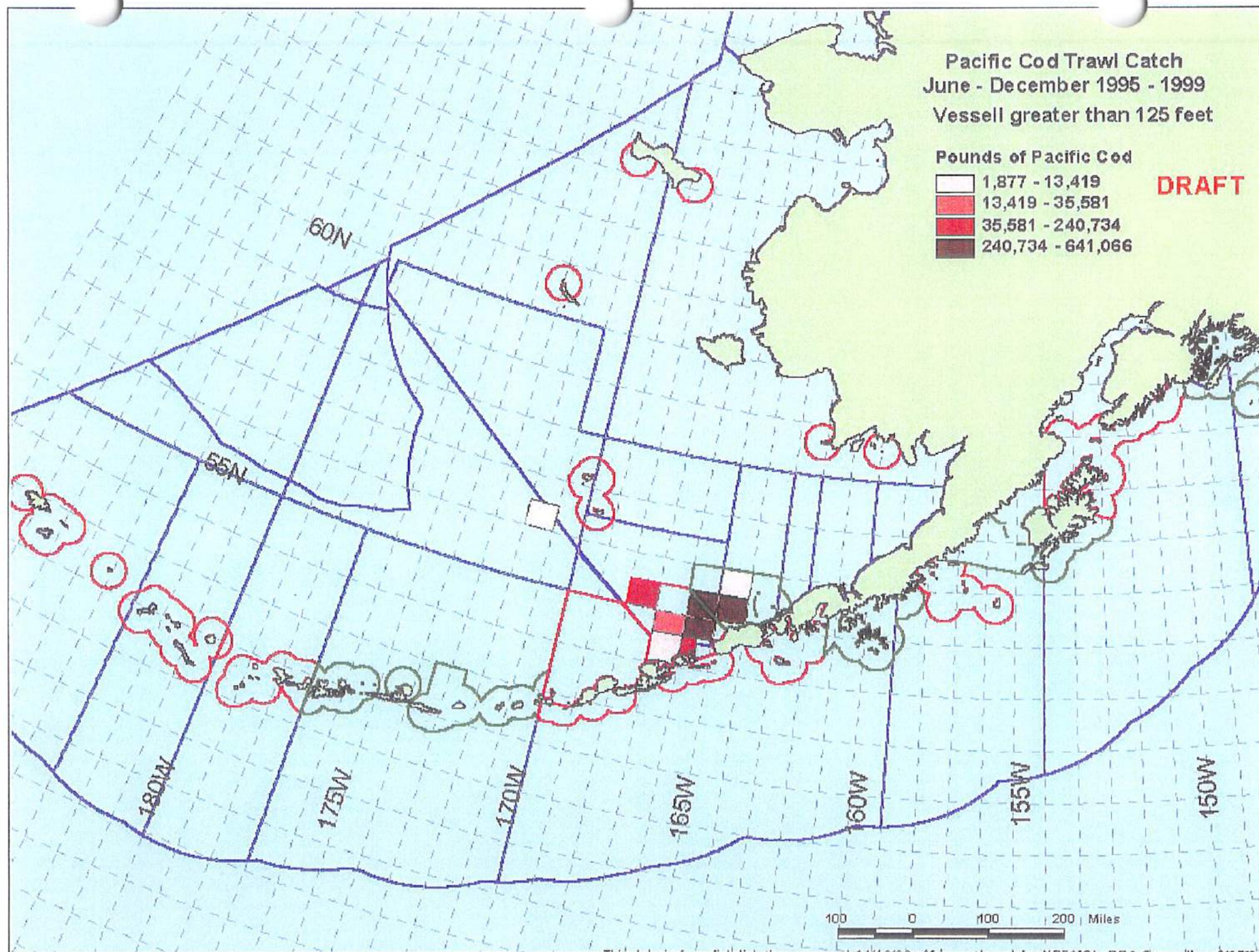


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Pacific Cod Trawl Catch
June - December 1995 - 1999
Vessell greater than 125 feet

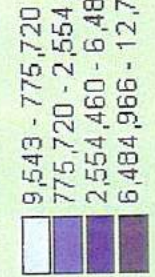


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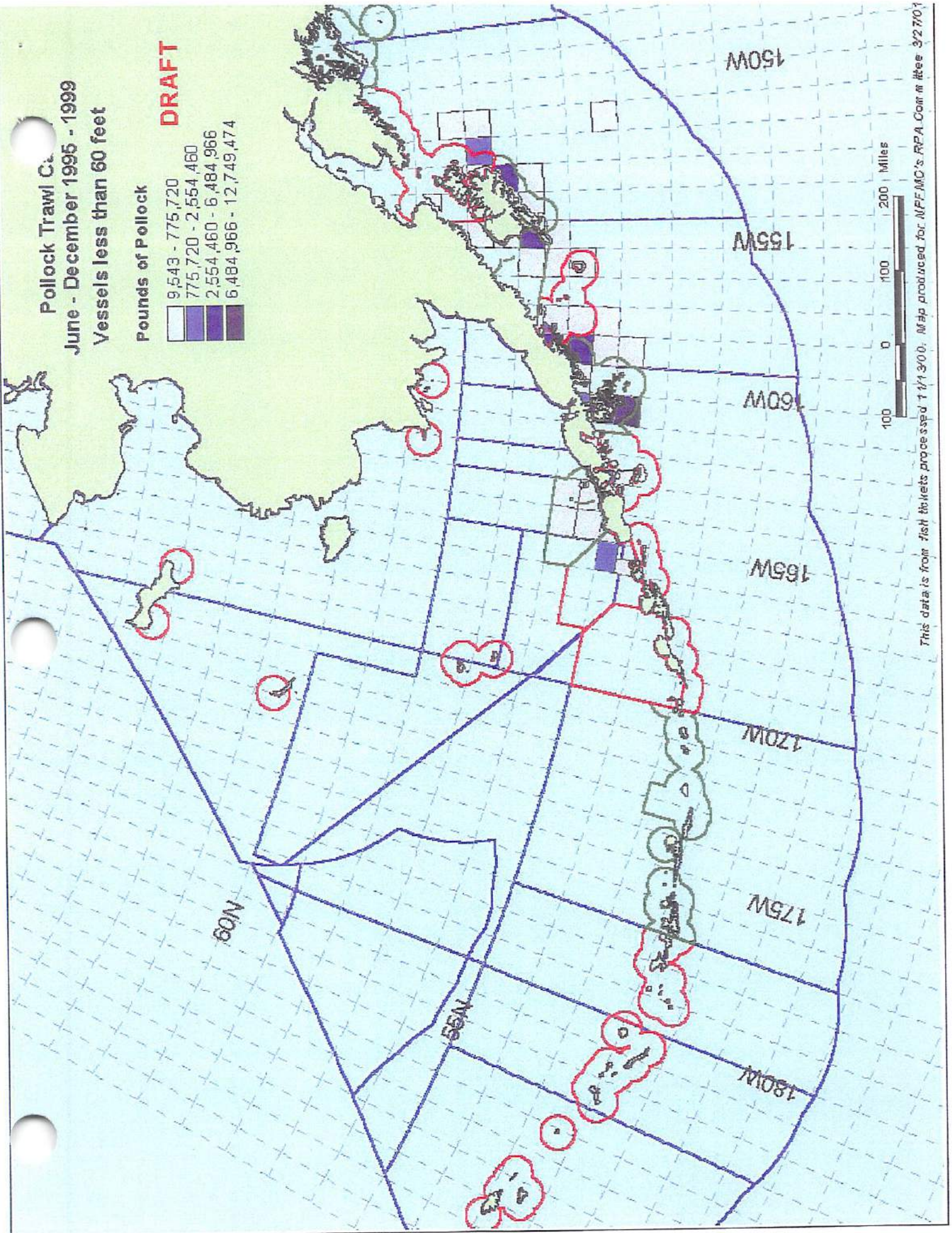


Pollock Trawl Catch
June - December 1995 - 1999
Vessels less than 60 feet

Pounds of Pollock

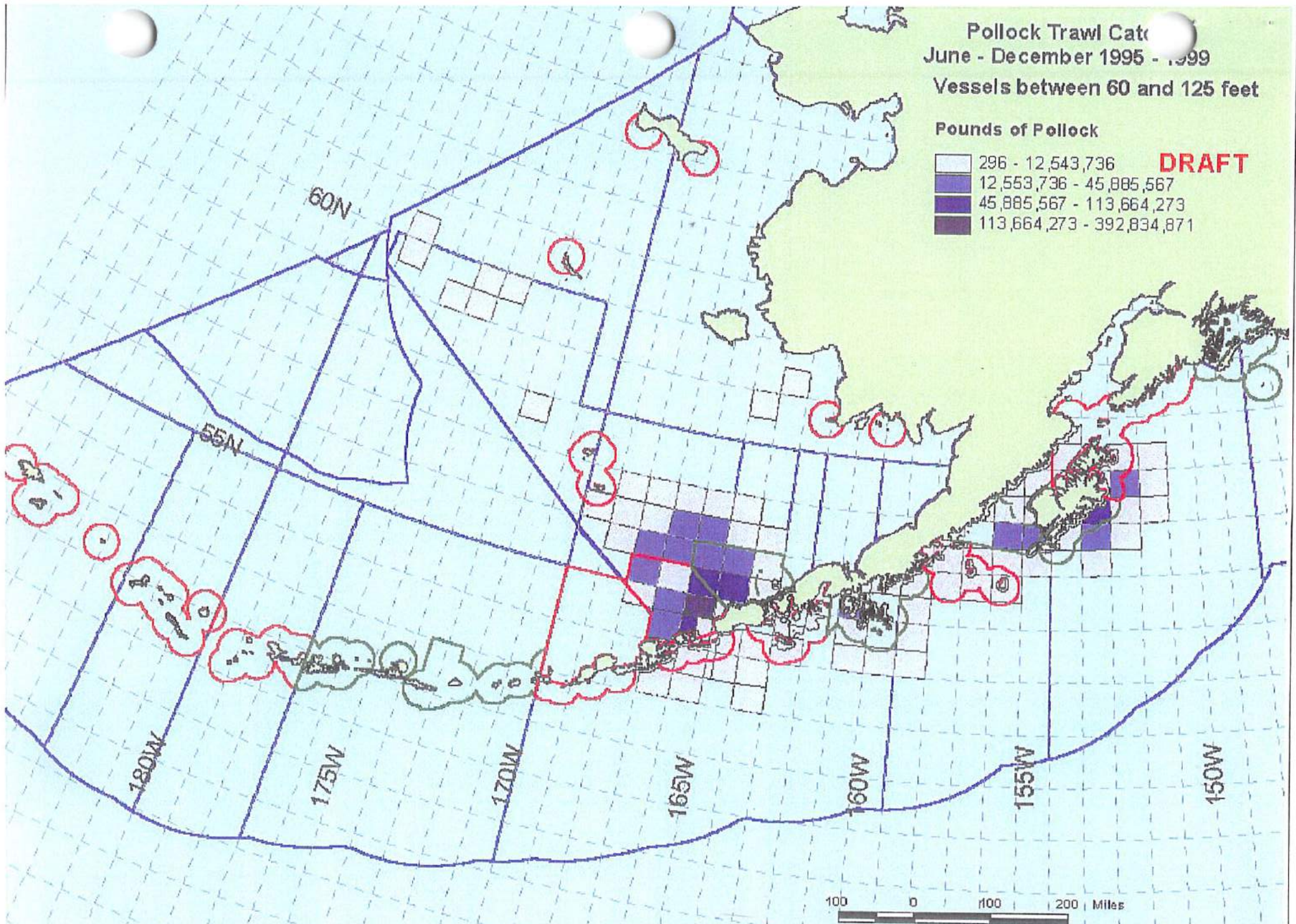
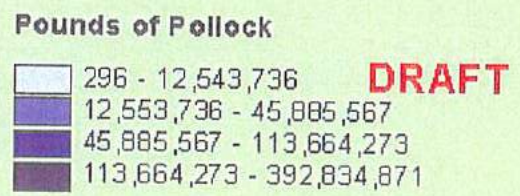


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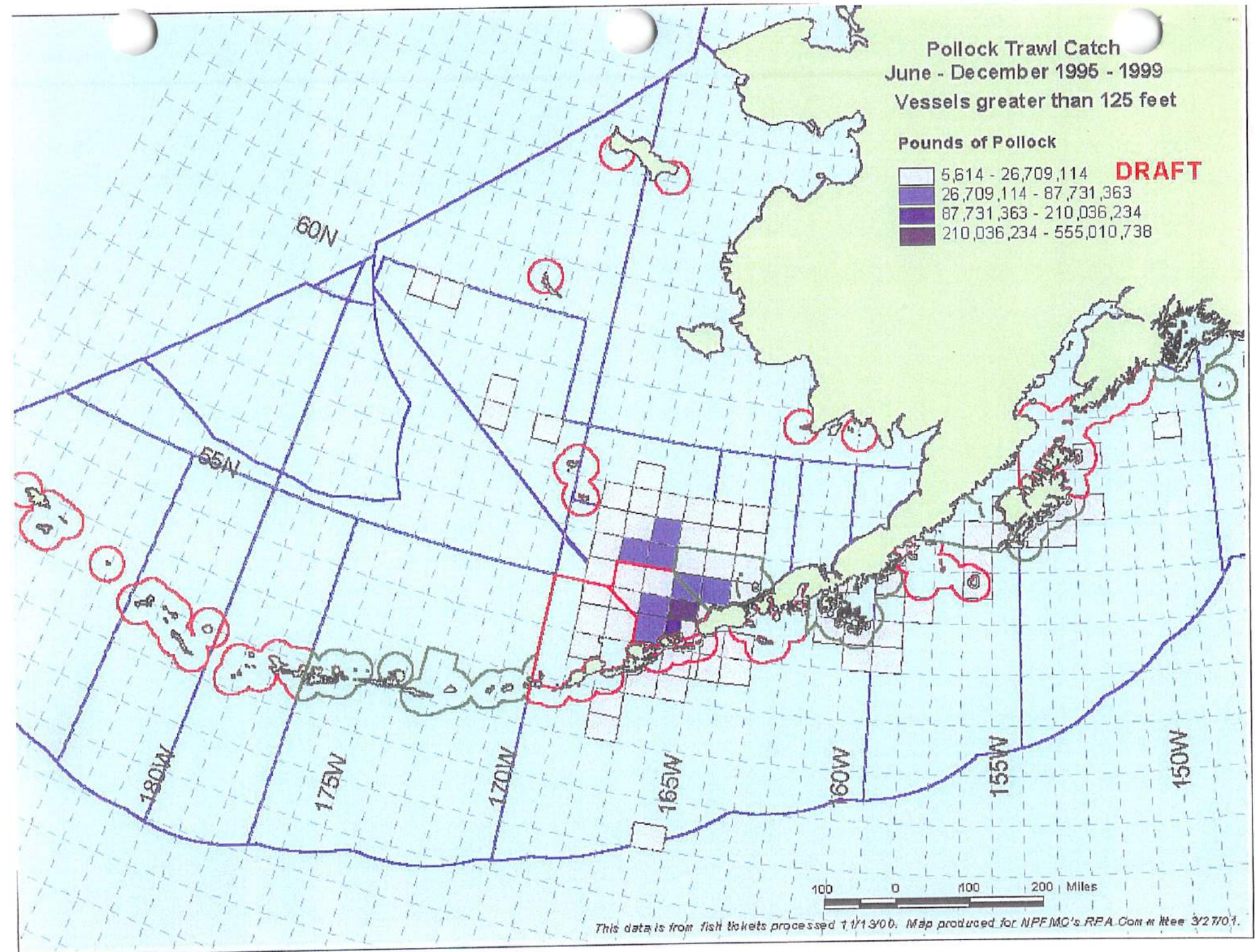
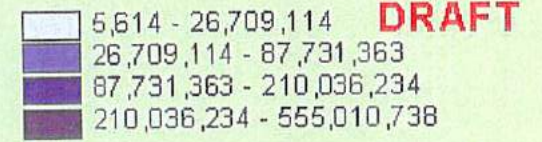
Pollock Trawl Catch
June - December 1995 - 1999
Vessels between 60 and 125 feet



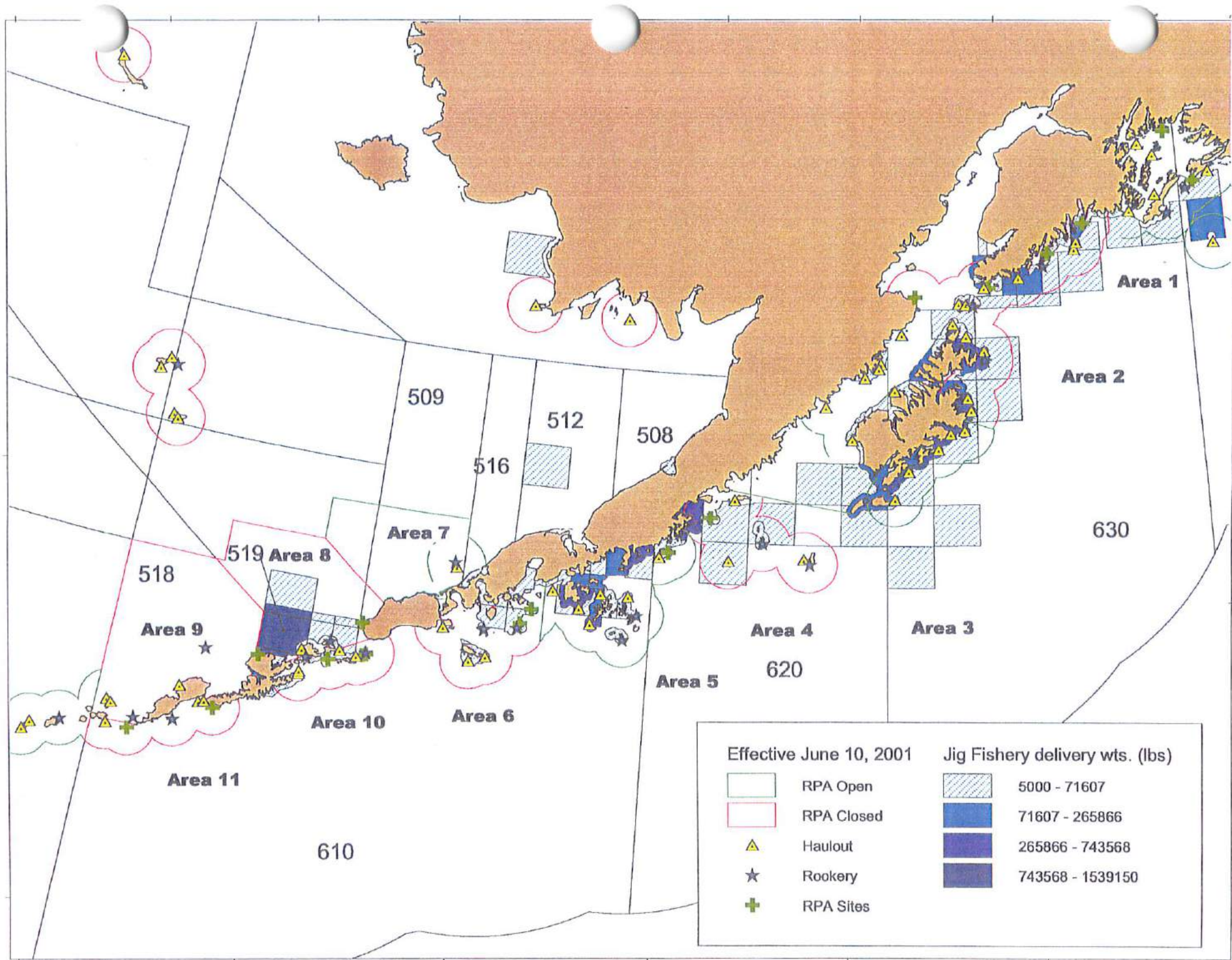
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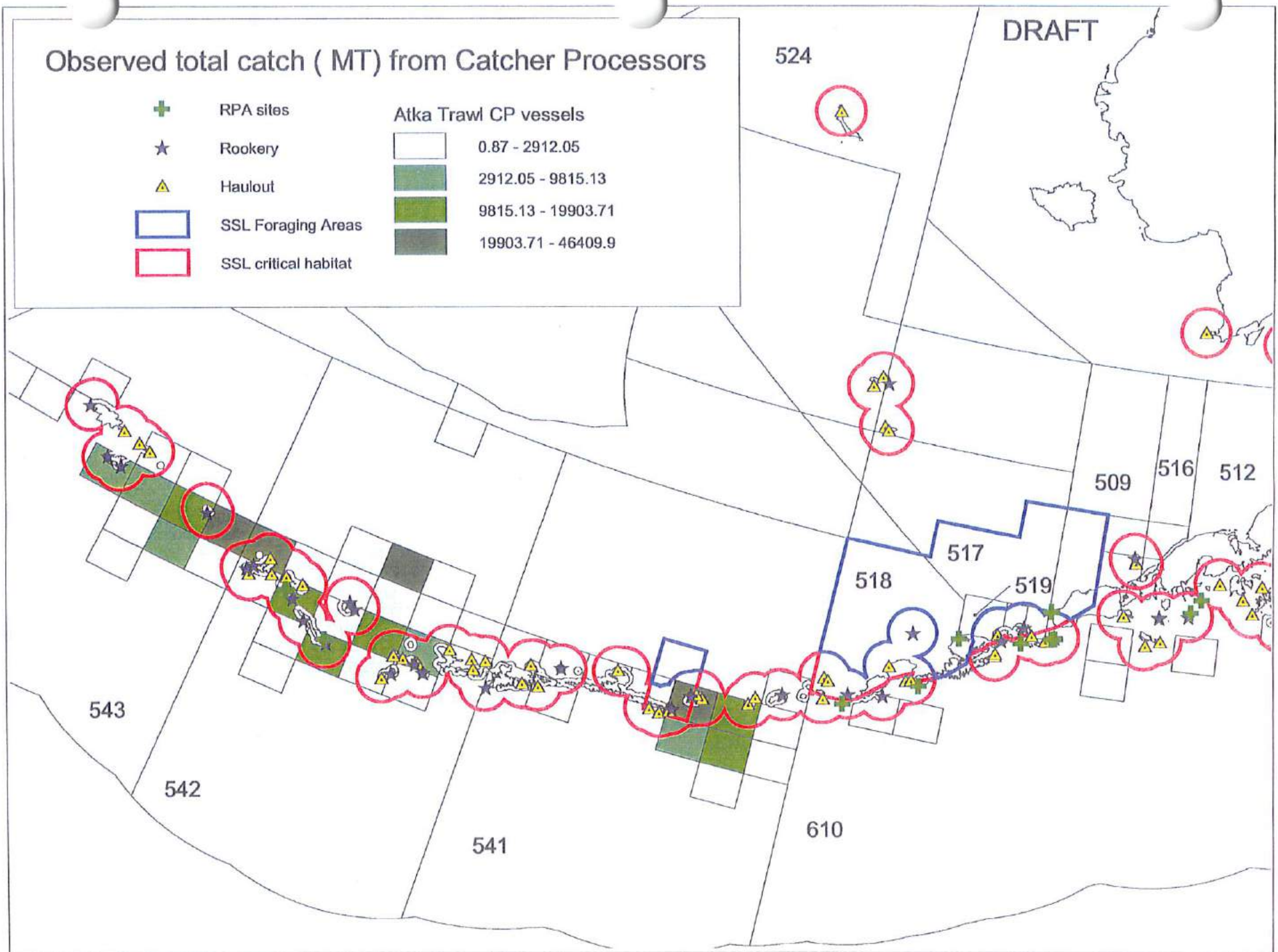
Pollock Trawl Catch
June - December 1995 - 1999
Vessels greater than 125 feet

Pounds of Pollock



This data is from fish tickets processed 1/1/3'00. Map produced for NPFMC's RPA Committee 3/27/01.





This map was produced as preliminary information exchange for the RPA committee

C-2 Supplemental
APRIL 2001

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF FISH AND GAME
Division of Commercial Fisheries

P.O. BOX 25526
JUNEAU, AK 99802-5526
PHONE: (907) 465-4150
FAX: (907) 465-2604

March 3, 2001

Mr. Larry Cotter
Chair, NPFMC Steller Sea Lion RPA Committee
APICDA
234 Gold Street
Juneau, AK 99801

Dear Mr. Cotter:

The Alaska Steller Sea Lion Restoration Team is very supportive of the North Pacific Fishery Management Council's Steller sea lion (SSL) Reasonable and Prudent Alternative (RPA) Committee. The Restoration Team developed some advice about alternative RPAs that we would like to pass along to your committee for consideration.

No-transit Zones

No-transit zones are essential to prevent disturbance of SSLs on land by passing vessels. As a general guide, the Restoration Team recommends 3,000-ft no-transit zones around all major haulouts, but *only during the season (i.e., summer, winter, or year-round) that these sites are occupied*. The team feels that there may be justification for no-transit zones with smaller radii for specific haulouts. The team noted that animals at some haulouts are habituated to vessels that approach to closer distances. However, this habituation may be difficult to quantify, and we suspect that the degree of habituation may vary with season, weather, and other factors. Similar to the exceptions provided in current regulations, the team recommends that the no-transit zones provide accommodations for situations, such as routes needed for safe navigation and areas in which the 3,000-ft radius includes entrances to harbors.

No-fishing Zones

The Restoration Team recommends that the RPA committee consider the following when prescribing no-fishing zones:

- The goal of no-fishing zones should be to ensure prey of appropriate species, adequate densities and spatial distributions, and preferred sizes are available to SSLs. Therefore, no-

fishing zones should be based upon considerations of SSL feeding ecology and not solely upon presence or absence observations at sea.

- The appropriate size of no-fishing zones around rookeries and haulouts depends on ecological factors that are likely to be related to bathymetry and other biophysical factors that determine forage distributions. Therefore, the Restoration Team believes that it may be useful to consider both distance and depth in establishing no-fishing zones.
- The team recommends conducting an analysis of foraging depth and distance from shore, including data collected since 1993. A frequency distribution of distances from the rookery should also be considered to evaluate habitat use, its relative importance, and to help design precautionary management actions based on relative risk associated with different fishing activities. However, it should be recognized that the distribution of satellite-recorded distances from a rookery might not be directly related to the proportion of time spent foraging at each location.
- No-fishing zones should be specified for the seasons in which rookeries and haulouts are occupied rather than year-round specifications if concern about localized depletion is the rationale for the closures. The seasonal closure should safely buffer against depletion effects that may persist for some time period after the cessation of fishing.
- Critical habitat includes major haulouts that have been defined seasonally as winter-only, summer-only, or year-round. In 1993, haulout sites were designated as critical if, at least once since 1979, an annual count exceeded either 75 animals in winter or 200 animals in summer. In addition to this initial criteria, the team discussed other criteria for designating haulouts as critical habitat: (1) the last 10 years of counts, rather than counts since 1979; (2) sites that met the criteria in more than one year, rather than just one year; and (3) other designation criteria for minimum counts. On the one hand, some concern was expressed that a site could be designated as critical even if no sea lions have been associated with it for decades. On the other hand, care should be taken that measures do not solely reflect current sea lion distributions. The team discussed the idea that all sites meeting the criteria remain designated, but that protective measures apply only to the occupied sites until the sea lion population trends are reversed. The Restoration Team did not adopt this as a specific proposal. Nonetheless, we recommend that recent trend estimates and indices of abundance should be considered when determining the level of priority for the application of management restrictions.
- When designing area closures, it may be useful to distinguish SSL critical habitat from special areas in need of extra protection. In 1993 when NMFS established 20-nm aquatic zones around rookeries and important haulouts as critical habitat, no specific management measures were associated with these areas. So, the delineation of no-fishing zones should include SSL ecological considerations that may not have formed the basis for the current designation of SSL critical habitat.

- The extent of a closure should depend largely on the spatial and temporal use patterns within the SSL foraging areas, especially those used by pregnant and lactating females and by juveniles.
- In establishing no-fishing zones, it may be worthwhile to consider whether there are differential effects of various fishing gears relevant to the intent of the closures. Differential effects of gear may be manifested as changes in prey distributions and SSL foraging behavior in response to vessel noise, different rates of prey removal on the number and density of fish schools available to SSL as forage, and differential gear effects on SSL habitat including the benthic environment.

Critical Foraging Areas

Three critical foraging areas have been defined: Shelikof Strait, Seguam Pass, and the Sea Lion Conservation Area. These geographic designations were based largely upon observer data from fisheries that were prosecuted under regulations that permitted high levels of discards at sea. The Restoration Team focussed most of its discussion on the Shelikof Strait area as an example. The foreign pollock fishery in the 1980s was a roe-stripping fishery in which large amounts of pollock carcasses were discarded at sea, and fishers report that those discards may have attracted sea lions to the area and contributed to increased sea lion bycatch and other interactions. Since roe stripping has been banned, SSL may no longer be attracted to the area to the same degree as in the past.

Given this, the Restoration Team recommends analyzing all relevant information, past and present, to determine the justification of the Shelikof Strait critical foraging area. Important fishery information includes observer data, depths of operation, bycatch of sea lions, historical records of spawning aggregations, and other attributes. The seasonal use of the foraging areas by tagged sea lions, if available, should be analyzed. Also, the relevance of this critical foraging area may be enlightened by conducting new foraging ecology studies using telemetry at the SSL sites in Shelikof Strait and adjacent sites in the Kodiak Island area. Similarly, all relevant data should be considered to reevaluate the other two critical foraging areas in Seguam Pass and the Sea Lion Conservation Area in the Bering Sea.

Experimental Design

The Restoration Team discussed the development of an experimental design independent of any potential closed areas that may be part of a management plan designed to remove jeopardy. The experimental component of the monitoring plan is a highly desirable feature of a RPA. However, the Restoration Team feels very strongly that the experiment, as well as other research studies, must be well designed and coordinated to provide useful data. The experiment should not be implemented until a sound design has been developed. The team would much prefer the conduct of targeted, informative studies on fishing effects rather than the hasty implementation of a poorly designed large-scale experiment with low statistical power. The team feels that the red/green design in the current RPA does not meet the desired standards.

Any experiment runs some risk of failure owing to wide scale movement of animals among treatments and difficulties to manipulate prey fields by fishing. The Restoration Team feels that inclusion of the following design features would enhance the likelihood of success:

- The experiment should be designed to address explicitly stated hypotheses, statistical tests should be defined in advance to test those hypotheses, and statistical power of the tests should be estimated.
- A cluster analysis of SSL population trends by region and site (if feasible) may be useful to select areas as treatments. The analysis should account for any changes in rates of decline over time. Those areas that have experienced similar rates of decline could be assigned to different treatments (i.e., open and closed areas) to determine whether trends diverge during the experiment.
- The design should consider the fact that SSLs do not respond to open/closure designations but rather respond to changes in prey density, distribution, and composition given their diet preferences. It must be recognized that "prey" include species consumed by SSL regardless of whether they are fished or unfished and regardless of whether they are managed by federal or state agencies inside or outside 3 nm. If the experiment is to determine whether a particular fishery (e.g., walleye pollock or Pacific cod) causes an individual and population effect on a local group of SSLs, then it is important that the experimental design considers total removals of that species, including any from state-managed fisheries. The issue then becomes whether the fishery was capable of causing localized depletion and, if so, whether the SSLs were able to switch to other species to obtain adequate prey to meet their needs. On the other hand, if the experiment is to determine whether broad open and closed areas to any fishing cause effects on SSLs, then it may be important to consider all prey species in the design. For reasons such as these, the hypotheses to be tested must be clearly articulated.
- The treatments must include fishing regimes of sufficient contrast to produce changes in the SSL prey field. It appears to the team that the fishing regime associated with the experimental design in the November 30, 2000 Biological Opinion (BiOp) provides inadequate contrast to be ecologically meaningful to SSLs.
- A monitoring program must be conducted to confirm that fishing did, in fact, cause the desired directional changes in the SSL prey fields; i.e., that the treatments exist.
- The experiment should include replicates to assure that responses in individual areas were not due to chance.
- The experiment must be associated with a long-term commitment to a meaningful monitoring program of diagnostic variables (covariates). The team feels that it is insufficient to simply attempt to correlate commercial landings from selected federally managed fisheries with SSL non-pup trends among treatments. Not only is a monitoring program needed to verify that the manipulations resulted in the desired treatments (i.e., changes in prey fields), but a monitoring program should collect data on the operative mechanisms associated with SSL

population responses. Key elements of the monitoring program should include: (1) record-keeping of all fishing mortality of SSL prey; (2) estimation of SSL prey densities, schools, and distributions; and (3) other metrics of sea lion population health including foraging trip duration, diet, blubber thickness, pregnancy rate, milk production, pup birth weight, pup counts, recruitment indices, and growth indices.

- A commitment must be made to maintaining the experiment until a specified time period after which the response is expected based on ecological principles and knowledge of sea lion population dynamics. Applying the treatments over one response time interval, then reversing the open and closed areas over a second response time interval may increase the statistical power of the experiment.
- The choice of scale is one the most difficult considerations of this experiment. The size of the treatment areas should be large enough to embrace the extensive movement patterns of juvenile and adult SSLs. However, the overall experiment should not cover so vast an area that it necessitates an unattainable monitoring program of important diagnostic variables. The team feels that the experimental design in the BiOp, i.e., 13 red/green areas encompassing the entire state, is too large to monitor the relevant diagnostics. A smaller portion of the coastline should be considered for the experiment.

The state's Restoration Team appreciates the opportunity to contribute our ideas to your RPA Committee. We wish you success toward developing an improved set of RPAs that promotes the recovery of SSL populations while sustaining viable commercial fisheries in Alaska.

Sincerely,



Gordon H. Kruse, Ph.D.
Chair, Alaska Steller Sea Lion Restoration Team

cc: Kevin Duffy, ADF&G Deputy Commissioner

**DRAFT Minutes of the RPA Committee Meeting,
April 9, 2001**

Members Present:

*Larry Cotter (chair)
Dave Benson
Shane Capron
Doug DeMaster
John Gauvin
Terry Leitzell*

*Alan Parks
Jack Tagart
John Winther
Sue Hills
Wayne Donaldson
Gerald Leape*

*Jerry Bongen
John Iani
Matt Moir
Dave Cline
Steve Drage
Tony DeGange*

Staff present: *Dave Witherell (coordinator), Mike Payne (NMFS), Sue Salvesson (NMFS).*

Meeting - The committee convened a special meeting on Monday morning, April 9, at 8:00 a.m. in Anchorage at the Hilton Hotel. Teleconferencing was available for those members who were unable to attend in person. The purpose of the meeting was to address the confusion regarding fishing inside the Sea Lion Conservation Area (SCA) in the Bering Sea during the later half of 2001 and clearly identify the committee's perspective on this issue. No other issues were addressed, and no public testimony was taken.

The meeting opened with Larry Cotter explaining the purpose of the meeting and providing some background. When the minutes from the March 26-29 meeting were distributed, some people contested that the minutes did not reflect what was agreed upon for Areas 7 and 8. So this meeting was set to clear the air on this issue. The Chairman asked that fishing community provide rationale for their proposal, and for Shane to clarify his concerns regarding pollock harvests in the SCA. One clarification (uncontested) from the previous minutes was that pot vessels (any size) would be allowed within 3-10 nm in area 8.

Fishing Community Proposal and Rationale - The fishing community had proposed the following for the Bering Sea (areas 7, 8 and 9):

1. Closures for trawling for cod and pollock around all rookeries and important haulouts as follows:

- Northern haulouts - 20 nm closures
- Pribilof haulouts - open outside 3 nm (they fail to meet minimum SSL count criteria)
- Pribilof rookery: 10 nm closure
- All remaining rookeries and haulouts : 10 nm closures.

[This is also the committee recommendation.]

2. No catch restrictions in the SCA foraging area outside the 10-mile closures except for existing exclusion from CVOA of offshore catcher-processors during C/D seasons. *[Subject of this meeting.]*

3. Drop C-D season split and have a single season. *[Also subject of this meeting]* Pollock and trawl cod can begin June 11, but cod longline and pot fishery should be delayed until September 1 *[changed by committee to August 15 for longline].*

4. Allow pot cod boats to fish outside three miles in the 3-10 area since they have only 4% of the TAC remaining for 2001, about 7000 tons. *[Committee clarified that this was for area 8 only]*

5. The Bogoslof area would remain closed to directed pollock fishing. [*Committee recommended also closing area 9 to mackerel and cod.*]

The rationale for this proposal was provided by Terry Leitzell and others. A list, based on committee discussion, is provided below:

1. Sea Lion Population Growth. Non-pup counts of steller sea lions in the areas of the Bering Sea where the pollock and cod fisheries occur are increasing significantly. The sea lions in Area 7 near Unimak Island and to the east, including the rookery on Amak Island, are increasing at a 3% annual rate. The sea lions in Area 8 (Dutch Harbor and the northern Bering Sea) are increasing at a 7% annual rate, the fastest increase of any group within the western population. In contrast, non-pup counts of sea lions in Area 9, the Bogoslof area where the pollock fishery has been closed for a decade, is decreasing at a -4% annual rate.

2. Sea Lion Prey. The scat analysis presented to the Committee by Beth Sinclair of the National Marine Fisheries Service indicates that sea lions are not as dependent on pollock and cod in the summer and early fall as previously indicated. Primary prey for sea lions on Amak Island is highly varied and dependent on spawning aggregations, with the top three prey species in the summer being herring, pollock, and sand lance. The Amak Island scats produced a dozen fish species that occurred in more than 10% of the scats, which Ms. Sinclair said was a significant percentage. For the rookeries and haulouts in Area 8 (Unimak and west to Dutch Harbor), the top summer prey were salmon, pollock, herring and some Atka mackerel. Although pollock is one of the primary prey species in Areas 7 and 8, the sea lions in these areas eat many different species, particularly in the summer. Cod is insignificant as a summer prey item, presumably since the cod are not spawning and are dispersed.

3. Sea Lion Foraging Distance. NMFS and ADF&G telemetry data presented to the Committee by Bob Small of ADF&G showed that the great majority of at-sea locations for the lactating females, juveniles, and pups that were tagged were very close to shore, with 60-75% within 2 miles of the shore and 85-92% inside 10 miles from the shore. Although the data cannot specify whether the animals were foraging, the extremely high percentage of "hits" so close to shore must include foraging trips. Both Bob Small and Doug DeMaster stated that the telemetry data are much more reliable than the platform of opportunity data for determining habitat use (since POP data also only shows location and not whether the animals were foraging). Finally, since the primary focus of NMFS protection effort is on the pups, juveniles, and females, the foraging data is significant since few if any adult males have been tagged.

4. Summer-Fall Cod Fishery. The cod fishery by all gear groups is significantly dispersed in the summer and fall because of the dispersion of the cod. In 1995-1999, when there were no CH restrictions on cod, longline catch occurred in significant amounts northwest of the Pribilofs and north of the SCA. Trawl cod fishing occurred both inside and outside the SCA, but the summer trawl fishery is small because of the low CPUE.

5. CVOA Exclusion. Current inshore-offshore regulations prohibit pollock fishing inside the CVOA by the catcher/processor sector which has 40% of the pollock TAC.

6. Reduction of the Inshore Pollock Trawl Fleet. The American Fisheries Act authorized the Bering Sea pollock trawlers to organize into cooperatives and to decapitalization. The result is a 24% reduction in the number of boats in the inshore pollock fleet. Consequently, the amount of fishing effort on pollock at any one time has been dramatically reduced in the last two years. (Anchorage Daily News 4/2/2001).

7. Vessel Safety. Although summer weather in the Bering Sea is certainly less threatening than winter weather, smaller boats are at risk when they must travel far from land and far from processing facilities. The SCA boundaries require boats to travel more than 60 miles offshore and even further from their plants. (Magnuson Stevens Act National Standard No. 10).

8. Product Quality and Cost. Pollock quality varies considerably by location and an exclusion from the SCA often results in poor quality, both because of fishing location and because of long trips back to plants. In addition, costs increase significantly, particularly with the current high cost of fuel. The Magnuson Stevens Act requires that efficiency and cost minimization be goals. (National Standard Nos. 5 and 7).

9. Salmon Bycatch. The Council has put serious pressure on the pollock trawl fleet to reduce chum salmon bycatch because of the problems with returns in Western Alaska. The AFA cooperatives have established a salmon savings plan which will be presented to the Council at the April meeting. If pollock trawling is largely excluded from the SCA, salmon bycatch will be higher than if the fleet has more flexibility to move away from hot spots. (Magnuson Stevens Act National Standard No. 9).

10. Pribilof Haulouts. No sea lions have been counted on the Pribilof haulouts since at least 1961. In addition, a significant portion of the waters near the haulouts are closed to trawling by other measures.

11. Bogoslof. The Bogoslof area has been closed to directed pollock fishing for several years pursuant to an international agreement (Convention on the Central Bering Sea--"donut-hole agreement").

12. Limited Period. The recommendation of the committee is only for the second half of 2001.

13. Scientific Disagreement. Extended foraging areas were originally established in 1993 based on platform of opportunity data (POP data), on the theory that indirect competition could exist with the fisheries. Yet, with sea lion populations currently at a low level, and pollock populations at a near record, there are 8 to 15 times more pollock available per sea lion today. Telemetry information suggests that sea lions spend very little amount of time beyond 10 nm during this time of the year.

NMFS Concerns and CH Limits

Shane clarified his concerns about allowing pollock catch by catcher vessels in the SCA. The issue of critical habitat catch limits dates back to 1998. It has been a cornerstone of mitigation measures for the fishery to avoid jeopardy. He noted that an increase in the harvest rate of pollock in the CHCVOA since 1995, with harvest rates in the second half of the year reaching 40% to 60%. Critical habitat harvest limits were based on the principle that fish removals should be proportional to biomass. The 1998 analysis showed that 12.4% of the pollock biomass was in the SCA during the C/D season. He was concerned that the proposal would allow much higher harvest rates to occur than were specific in the BiOp or the recent emergency rule. For comparison, he provided harvest rates shown below.

	<u>Biop</u>	<u>E.R.</u>	<u>Proposal</u>
C season	3.6%	3.4%	up to 40% in combined season.
D season	6%	5.7%	

The committee discussed these percentages, and tried to relate them to actual TAC levels. Larry calculated that with a annual TAC of 1.4 million mt, and 60% allocated to the C and D season, of which 40% is taken by catcher-processors outside of the CVOA, but allowing the c/ps to fish their CDQ harvest inside the CVOA, the maximum amount of pollock that would be taken inside the SCA this fall under the industry

proposal is 517,440 mt. For comparison, the BiOp RPA would limit harvest to only 69,000 mt. If the allowable percentage was applied to the ABC rather than TAC (the method used in the BiOp RPA), the limit could be upped slightly, but would still result in a closure of the SCA in all practicality.

The Committee also discussed the issue of re-consultation. What triggers consultation? Shane noted that in most cases when an RPA is developed, it probably can't be implemented exactly as originally written. Instead, the action agency tries to keep within the scope of the intent. If there are significant changes to be made in the management measures, but the protection offered to the listed species is the same or better, then the agency can make a "no-effect" determination, and no further consultation is necessary. Hence, the decision to re-initiate consultation is based on whether the changes result in positive or negative effects, not what methods are employed. An informal consultation can be used to get the issue and consideration on the record, and either result in a no-jeopardy determination, or an expanded consultation. An expanded consultation could have big impacts on the fishery due to the time involved to prepare and complete.

Doug DeMaster noted that there may be difficulties with the administrative record, but expressed his perspective that the proposal was a wash for SSL conservation relative to the emergency rule. He felt that the proposal resulted in additional protections for SSL in the GOA and AI, but may be perceived as offering less protection in areas 7 and 8. The cod fishery restrictions resulted in additional protections for sea lions in areas 7 and 8, however. He noted that the agency will need to weigh the differences and evaluate these tradeoffs. Shane expressed his concern that re-consultation may be necessary. He stated that the agency will have to review the proposal again from the total perspective, and make a determination as to whether a consultation (formal or informal) would be required in light of the area 7 and 8 sea pollock fisheries as compared to the package as a whole.

Larry summarized the committee's position on the proposal. Larry proposed that the committee report would note two members objecting (Leape and Cline), and the other members supportive of the proposal with the caveat on potential re-initiation of a consult as stated by Shane above. The committee concurred.

Larry noted that an experimental design working group will be assembled, and a letter will be forwarded to ADF&G and NMFS requesting a white paper on telemetry data be developed. He also recently met with NMFS staff to discuss the committee's data request necessary to evaluate the 'zonal' concept. He closed the meeting by stating that the April meeting was cancelled. This meeting ended at approximately 10 am.

Bering Sea pollock biomass (mt), potential catch (mt), and sea lion prey availability under the RPA Committee recommendation for second half of 2001.

2001 EBS pollock biomass	10,060,000	
ABC	1,842,000	
TAC	1,400,000	
proportion biomass in SCA	0.124	(estimated from NMFS summer survey - S. Capron pers. com.)

SCA biomass	1,247,440	
SSL forage needs	534,798	(calculated using the same methodology as BiOp Appendix 3)
<u>surplus biomass</u>	<u>712,642</u>	(excess pollock biomass not needed for SSL foraging)

<u>c/v catch</u>	<u>433,440</u>	
<u>surplus</u>	<u>279,202</u>	(biomass after forage needs and maximum fishery removals)

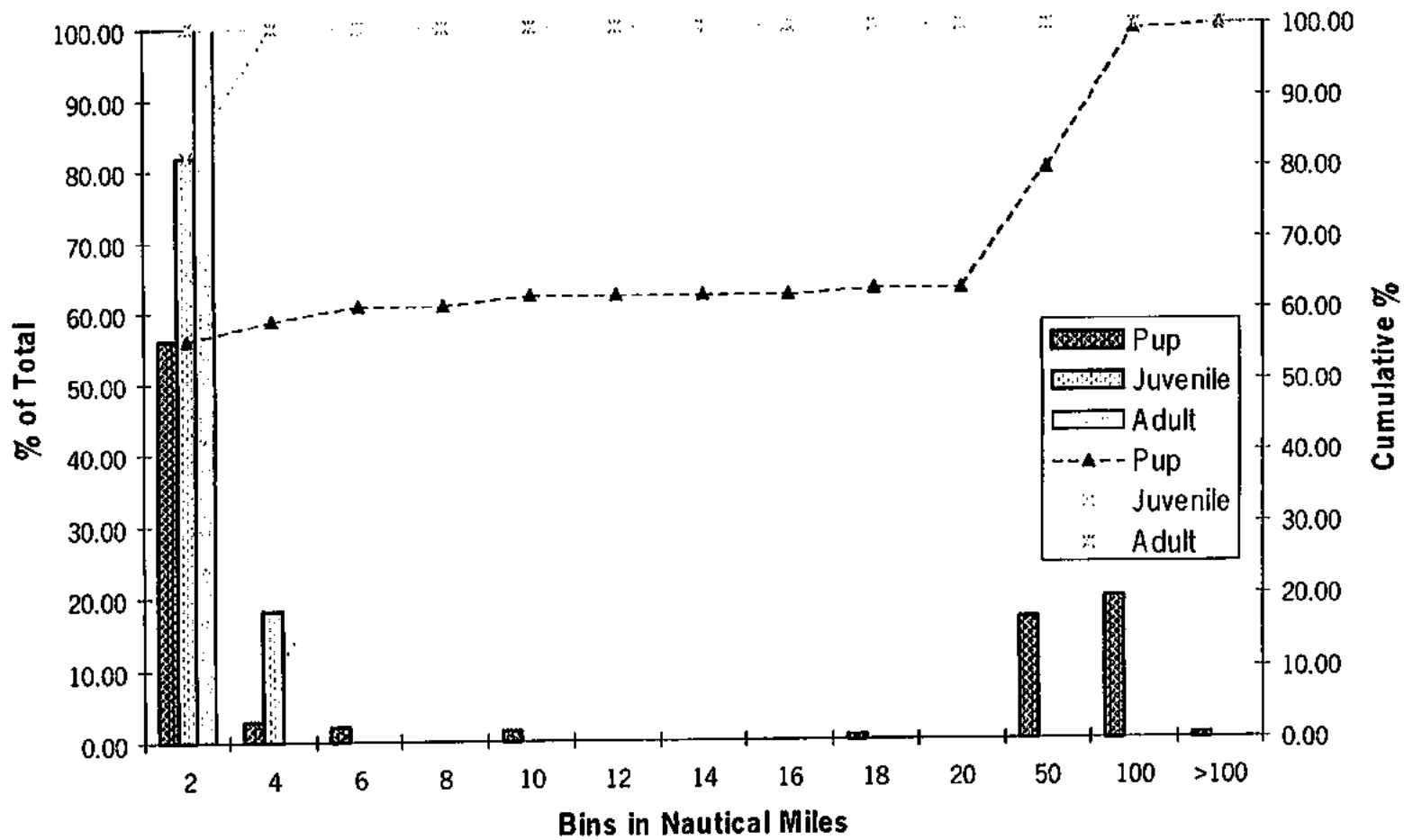
<u>c/v catch w/CDQ</u>	<u>517,440</u>	
<u>surplus</u>	<u>195,202</u>	(biomass after forage needs and maximum fishery removals)

Notes:

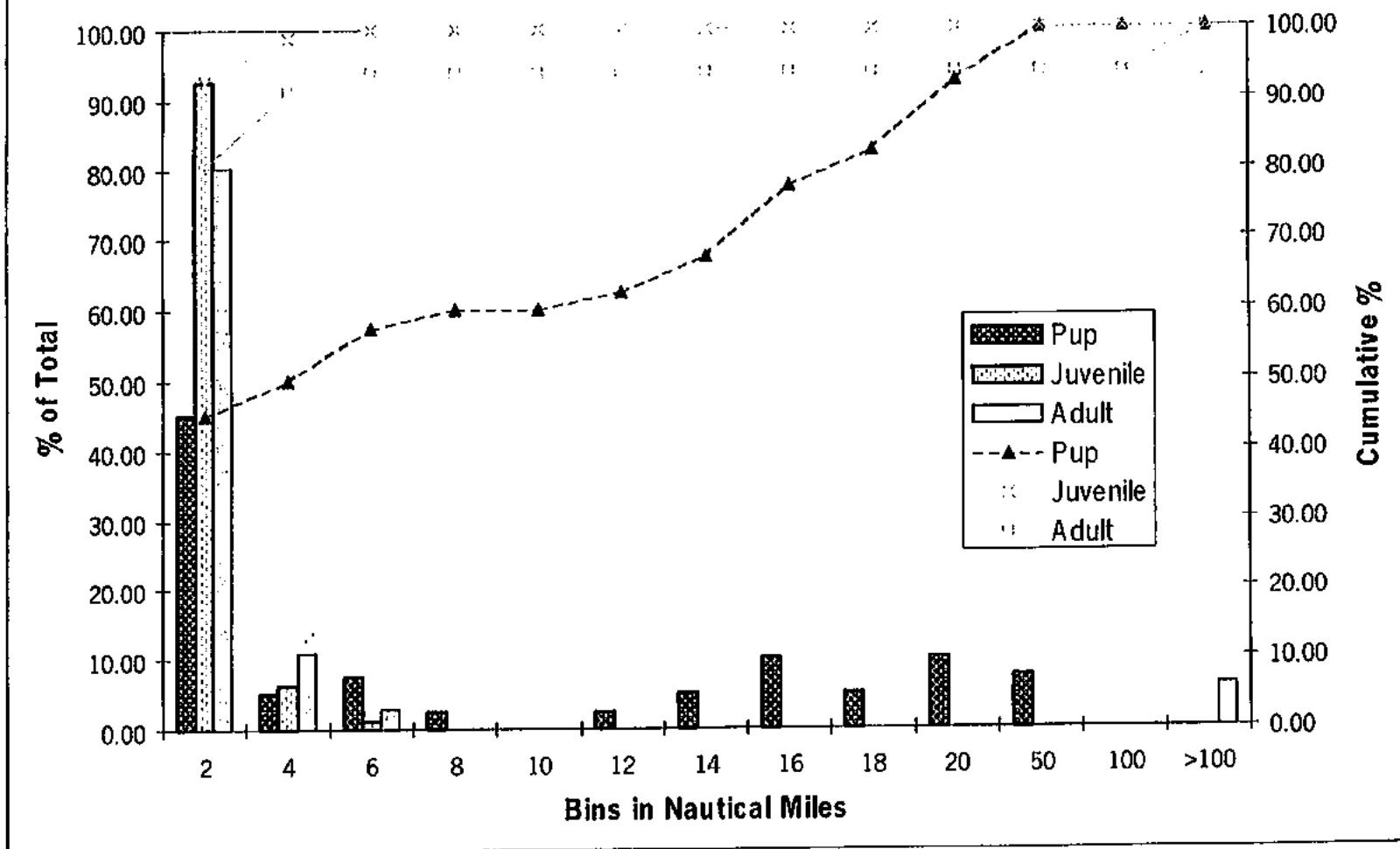
1. Forage needs were estimated from consumption studies, expansion factors for successful foraging, and most recent SSL counts from Areas 7+8 including pups (using most conservative estimate).
2. Catch for c/v's is estimated from the TAC, taking bycatch needs and CDQ off the top, then multiplying by 0.6 (C/D season allocation), and by 0.6 again (c/v allocation)
3. Catch for c/v's with CDQ is estimated by adding the CDQ C+D allocation back into the c/v catch.

The NMFS Alaska Ecosystem program and the ADF&G Steller sea lion research program have prepared these preliminary results of satellite telemetry data for the RPA Committee. For additional information pertaining to this information, or for use in any publication or account, please contact the NMFS (Dr. Thomas R. Loughlin, Alaska Ecosystem Program Manager or Dr. Douglas P. DeMaster, Director, National Marine Mammal Laboratory) or ADF&G (Dr. Tom S. Gelatt, Principal Investigator, Steller sea lion program or Dr. Robert J. Small, Marine Mammals Coordinator).

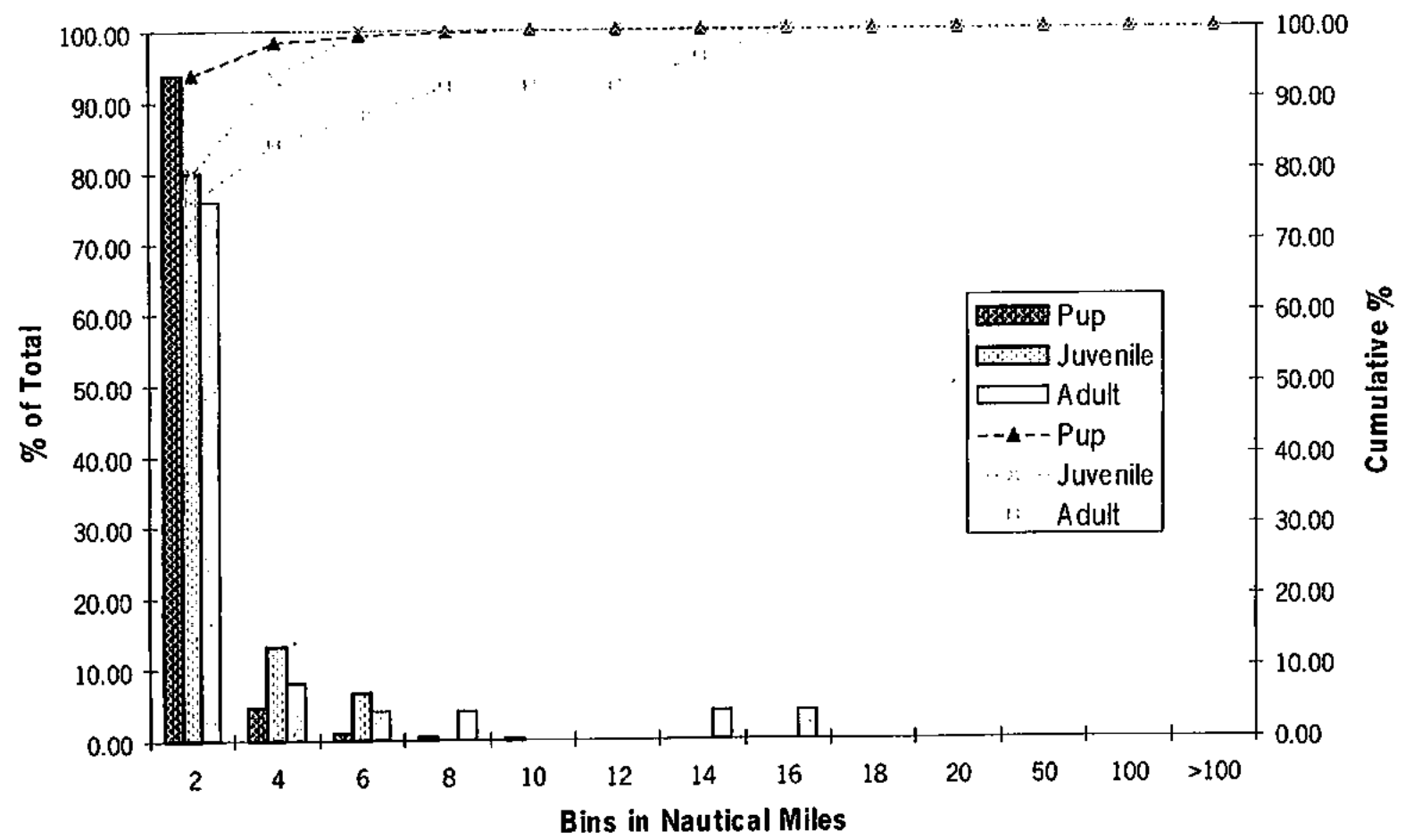
Distance Between Nearest Land Mass and At-Sea Locations Summer - Aleutian Islands/Bering Sea



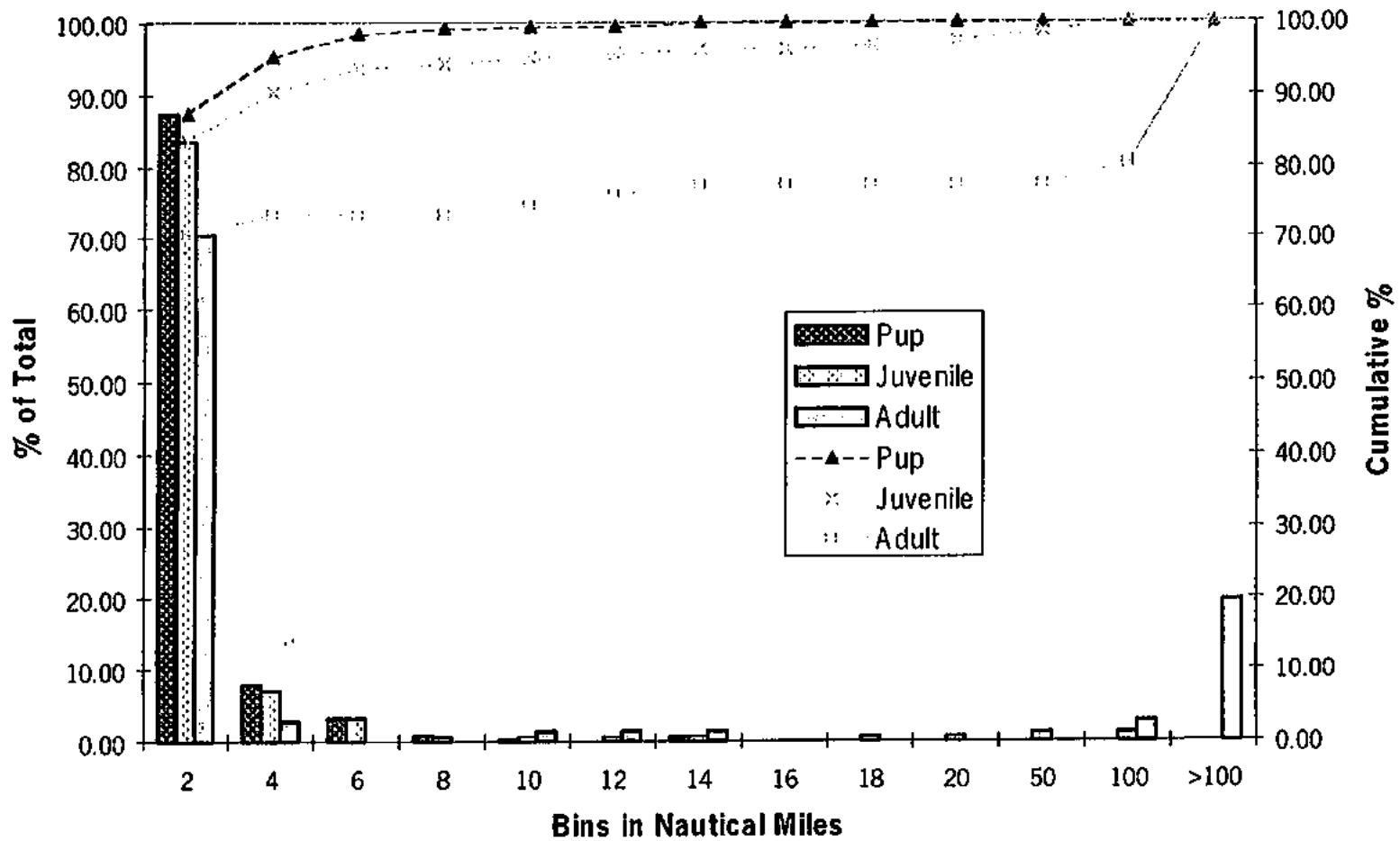
Distance Between Nearest Land Mass and At-Sea Locations Summer - Gulf of Alaska



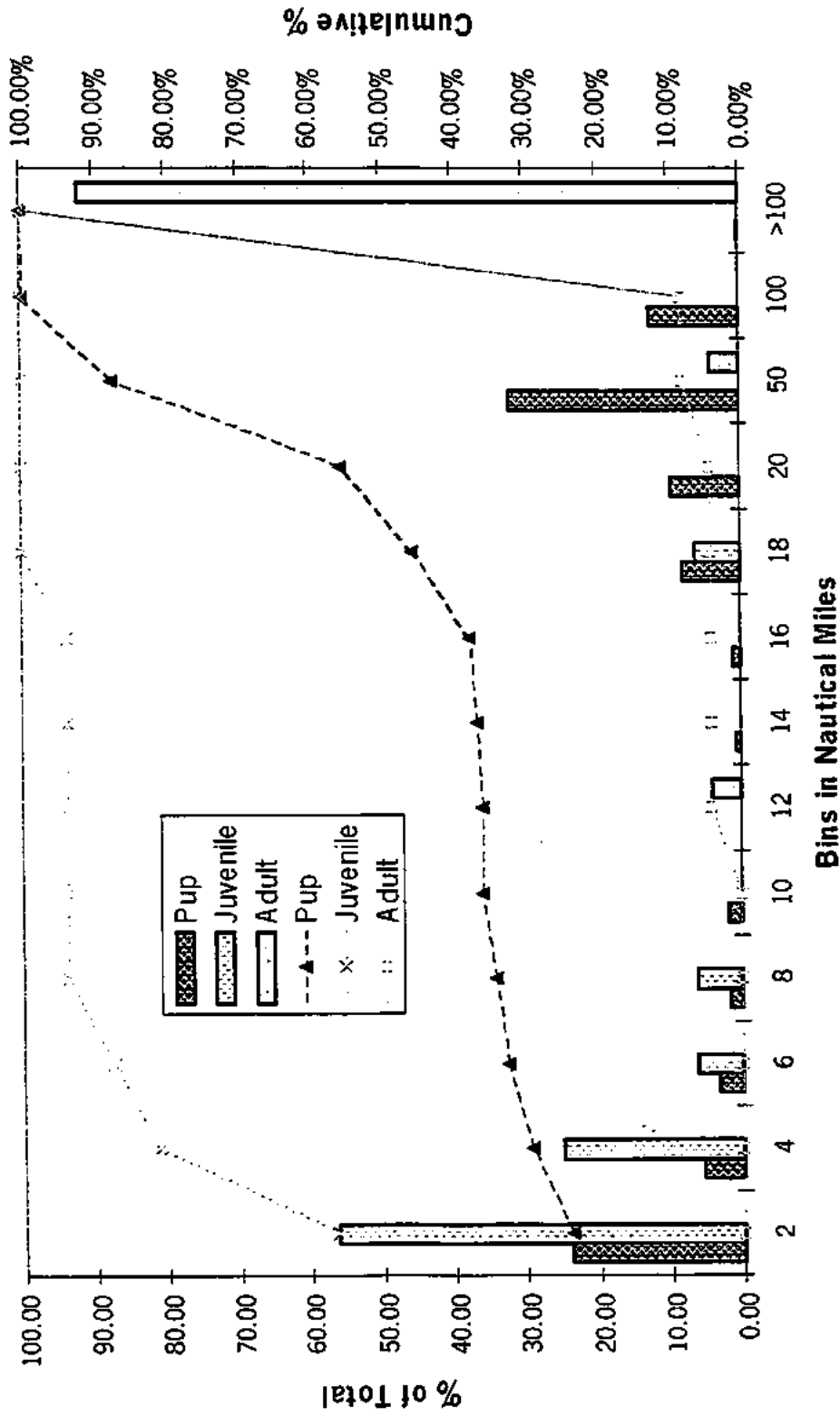
Distance Between Nearest Land Mass and At-Sea Locations Winter - Aleutian Islands/Bering Sea



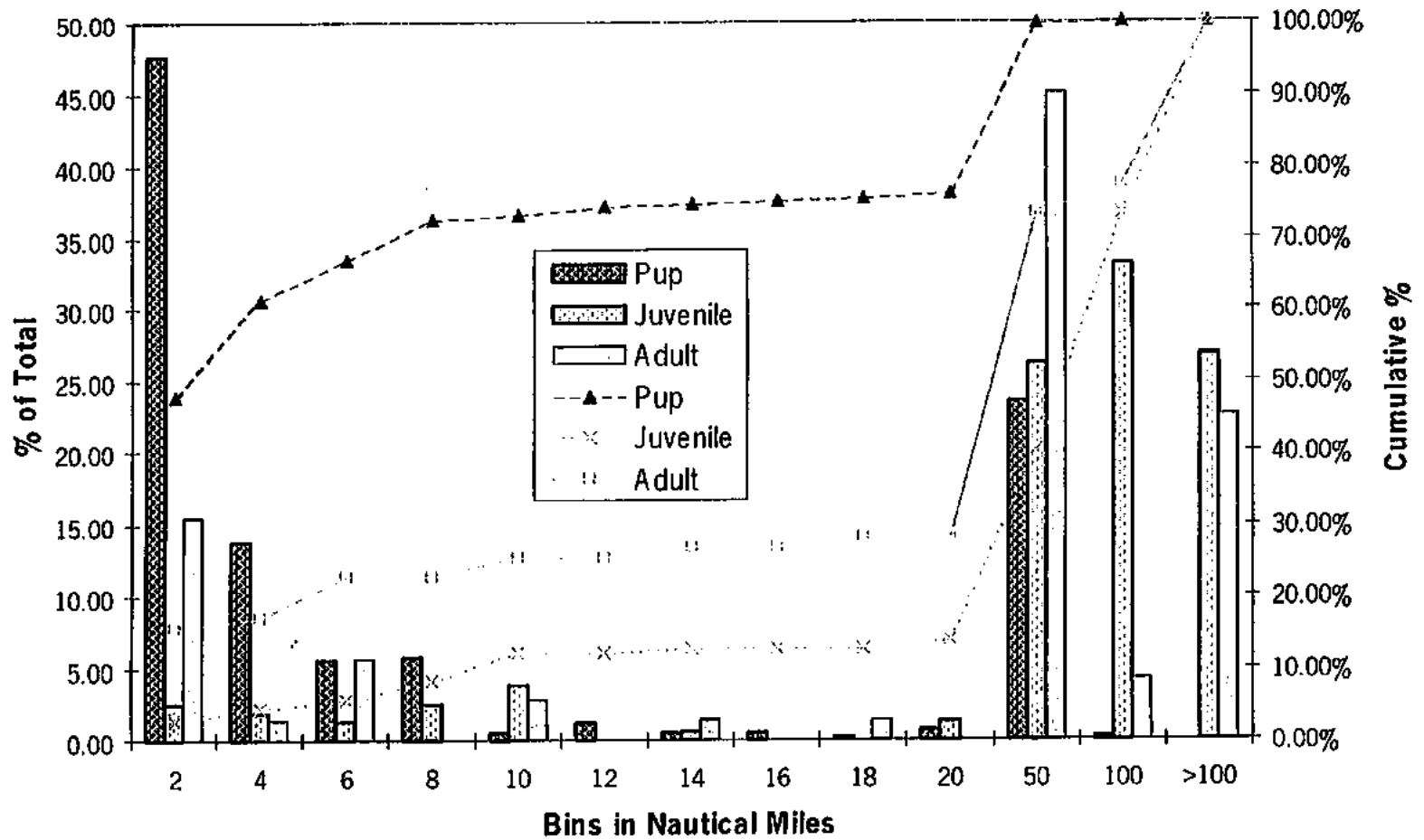
Distance Between Nearest Land Mass and At-Sea Locations Winter - Gulf of Alaska



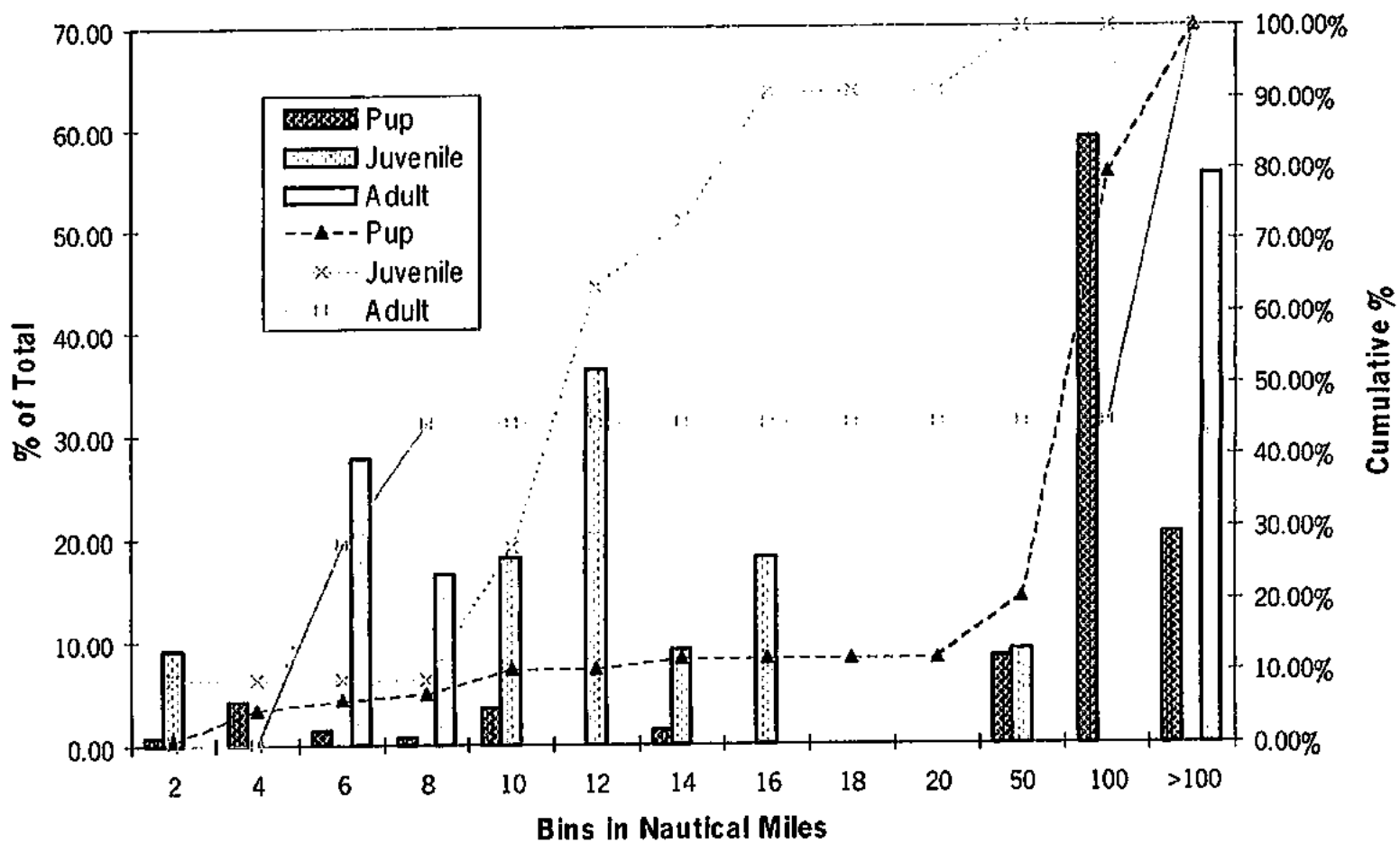
Distance Between Deployment Site and At-Sea Locations Winter - Aleutian Island/Bering Sea



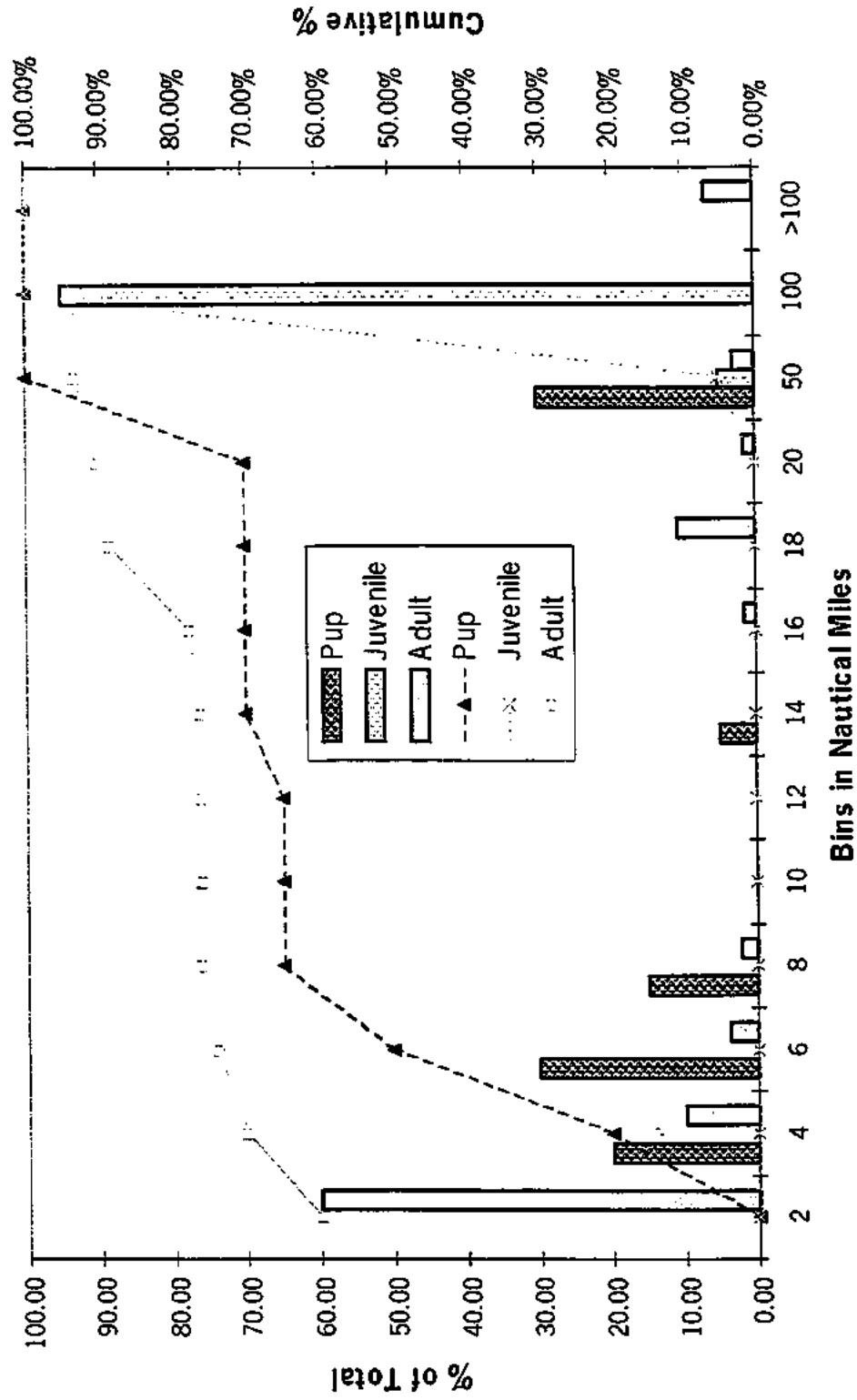
Distance Between Deployment Site and At-Sea Locations Winter - Gulf of Alaska



Distance Between Deployment Site and At-Sea Locations Summer - Aleutian Island/Bering Sea



Distance Between Deployment Site and At-Sea Locations Summer - Gulf of Alaska



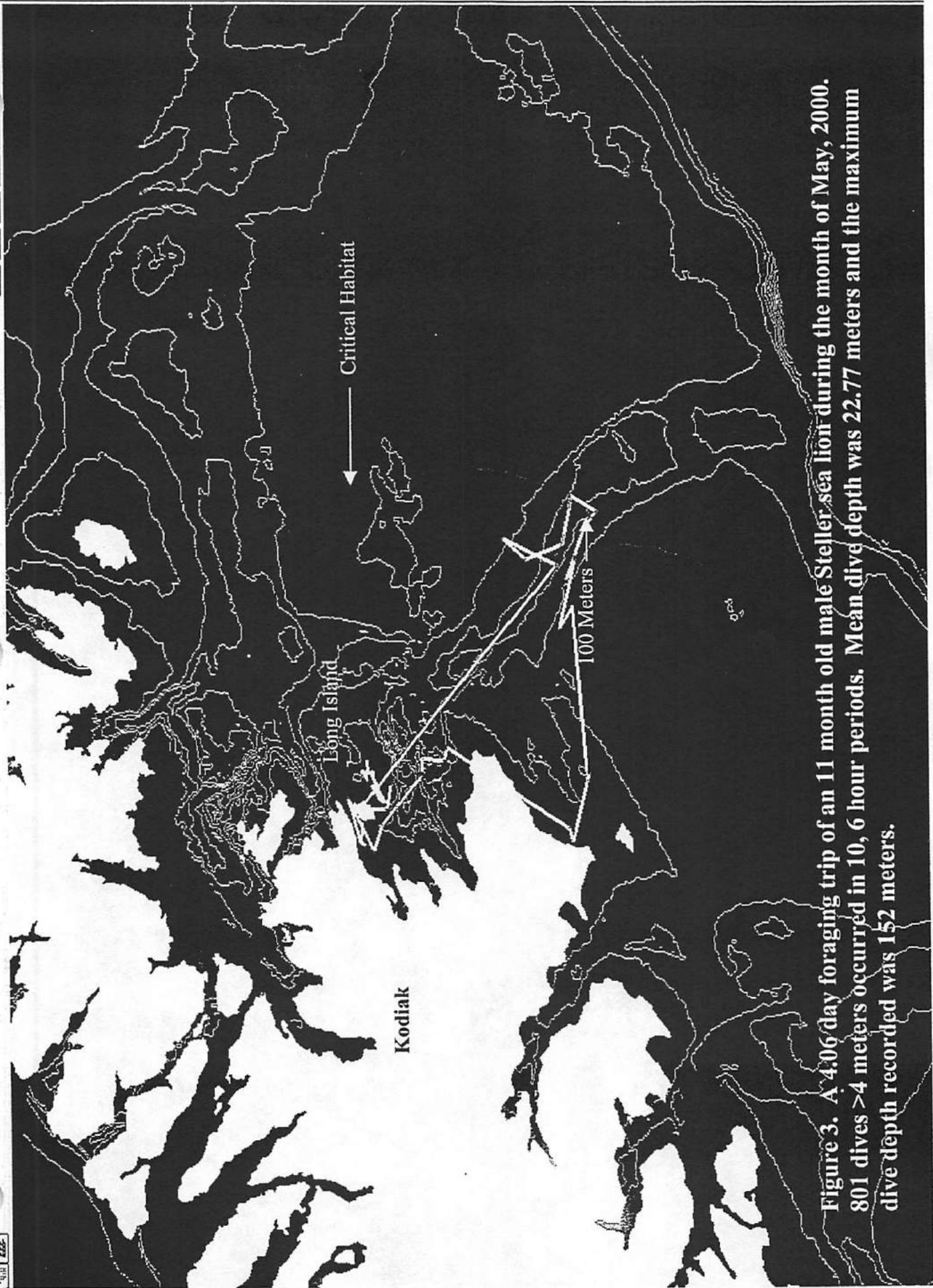


Figure 3. A 4:06 day foraging trip of an 11 month old male Steller sea lion during the month of May, 2000. 801 dives >4 meters occurred in 10, 6 hour periods. Mean dive depth was 22.77 meters and the maximum dive depth recorded was 152 meters.

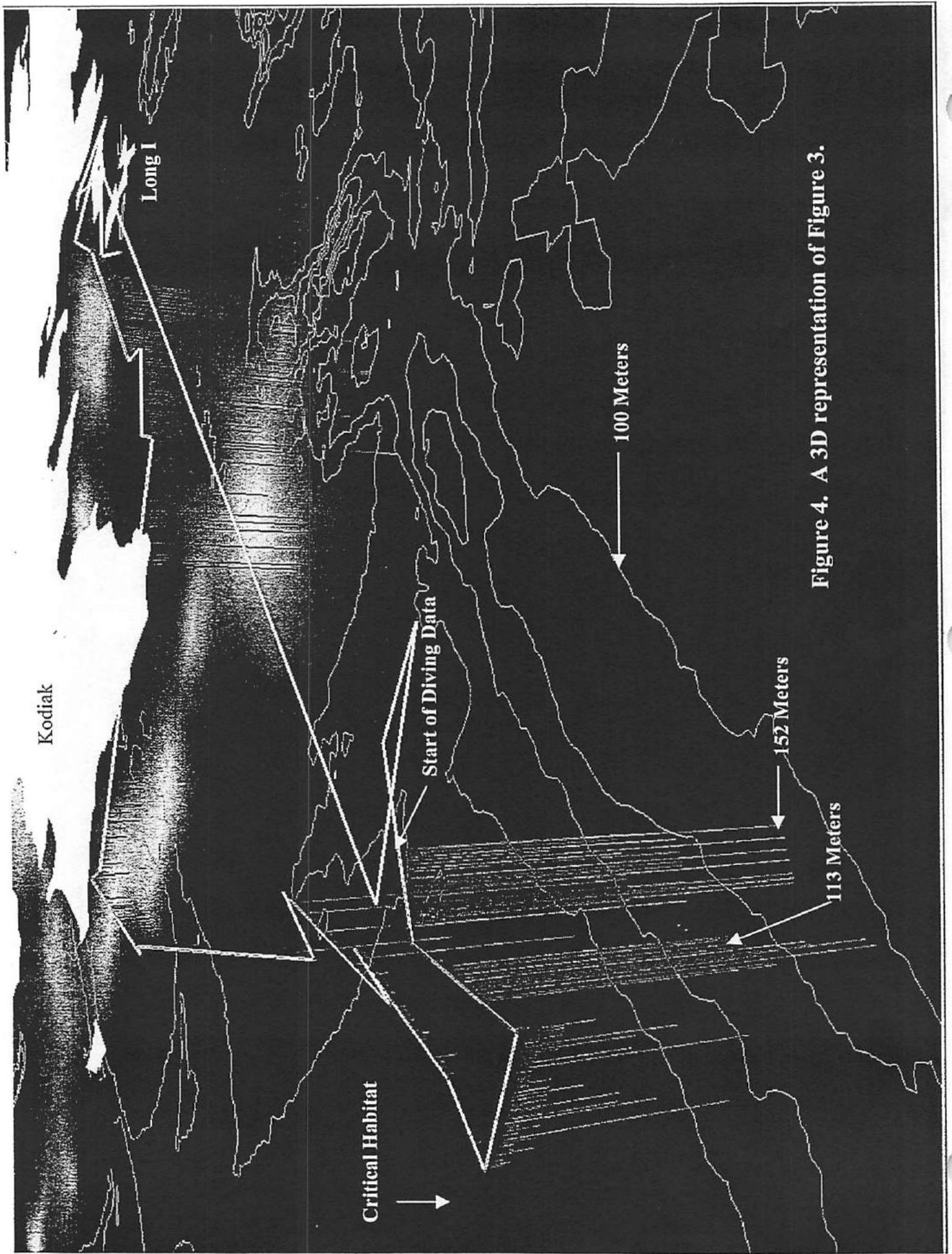


Figure 4. A 3D representation of Figure 3.

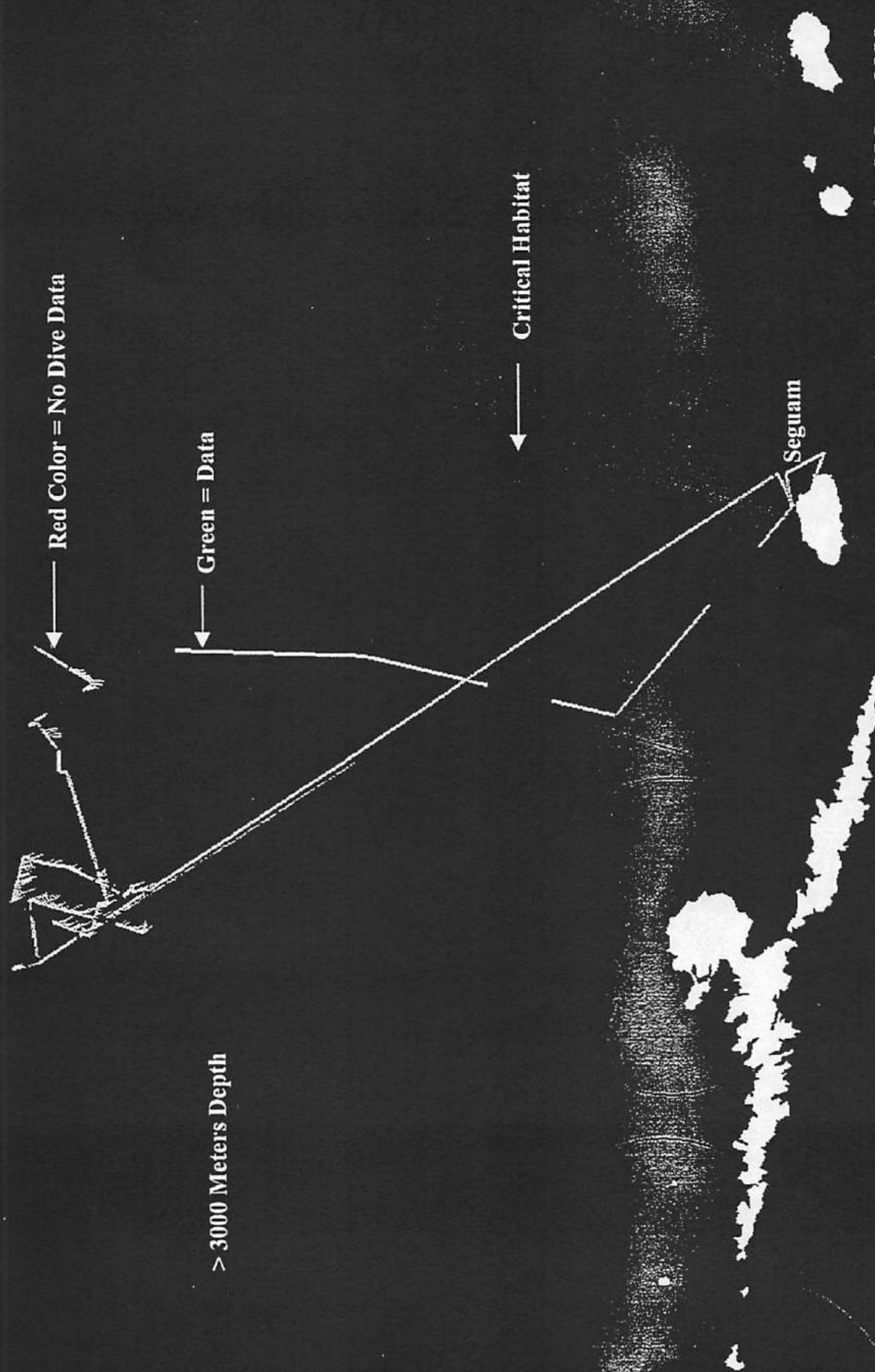


Figure 1. A 14.33 day foraging trip of an 11 month old male Steller sea lion during the month of May, 2000. 3463 dives >4 meters occurred in 31, 6 hour periods. Mean dive depth was 18.04 meters and the maximum dive depth recorded was 252 meters.

14163 Diving Behavior

Critical Habitat →

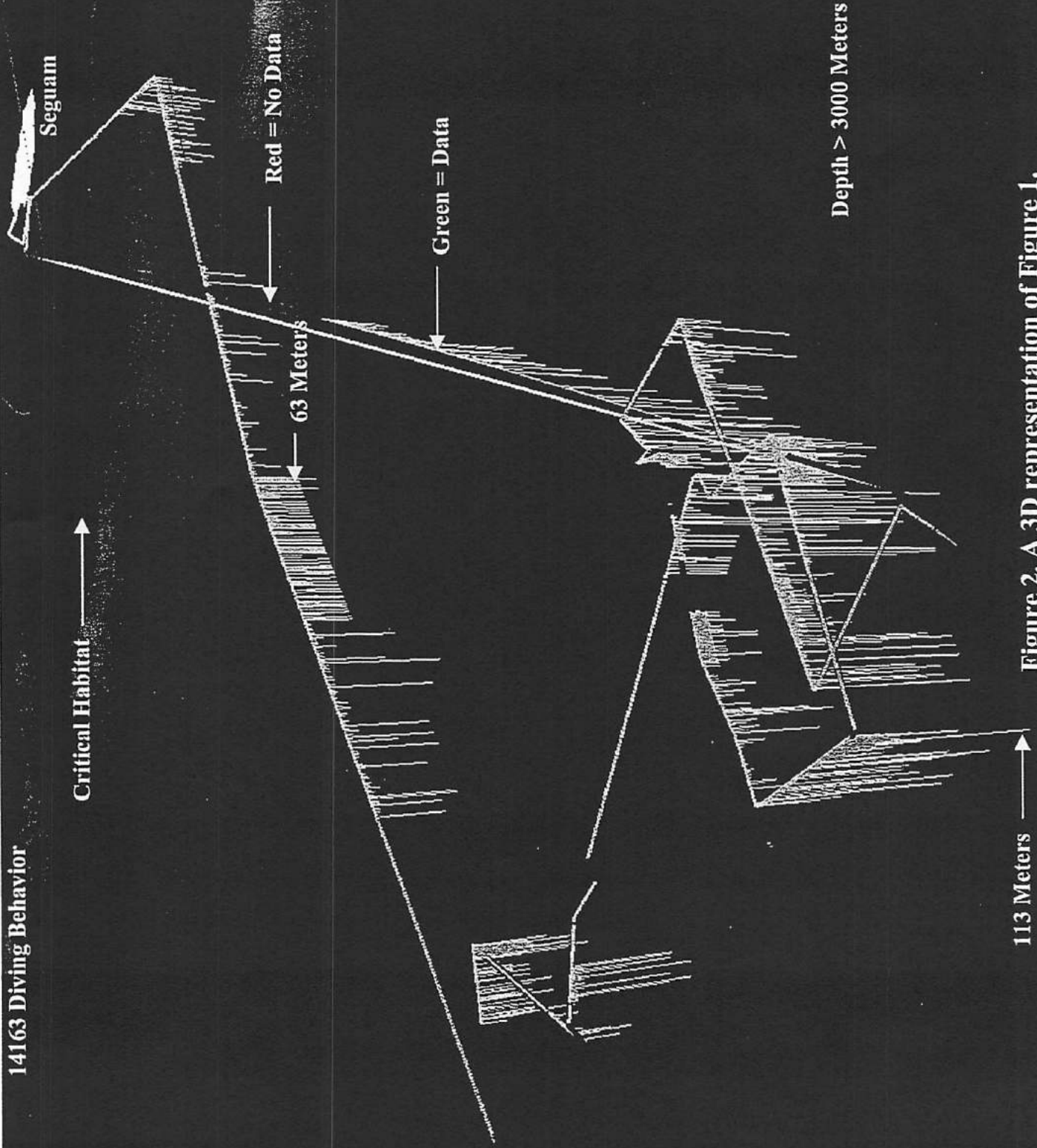
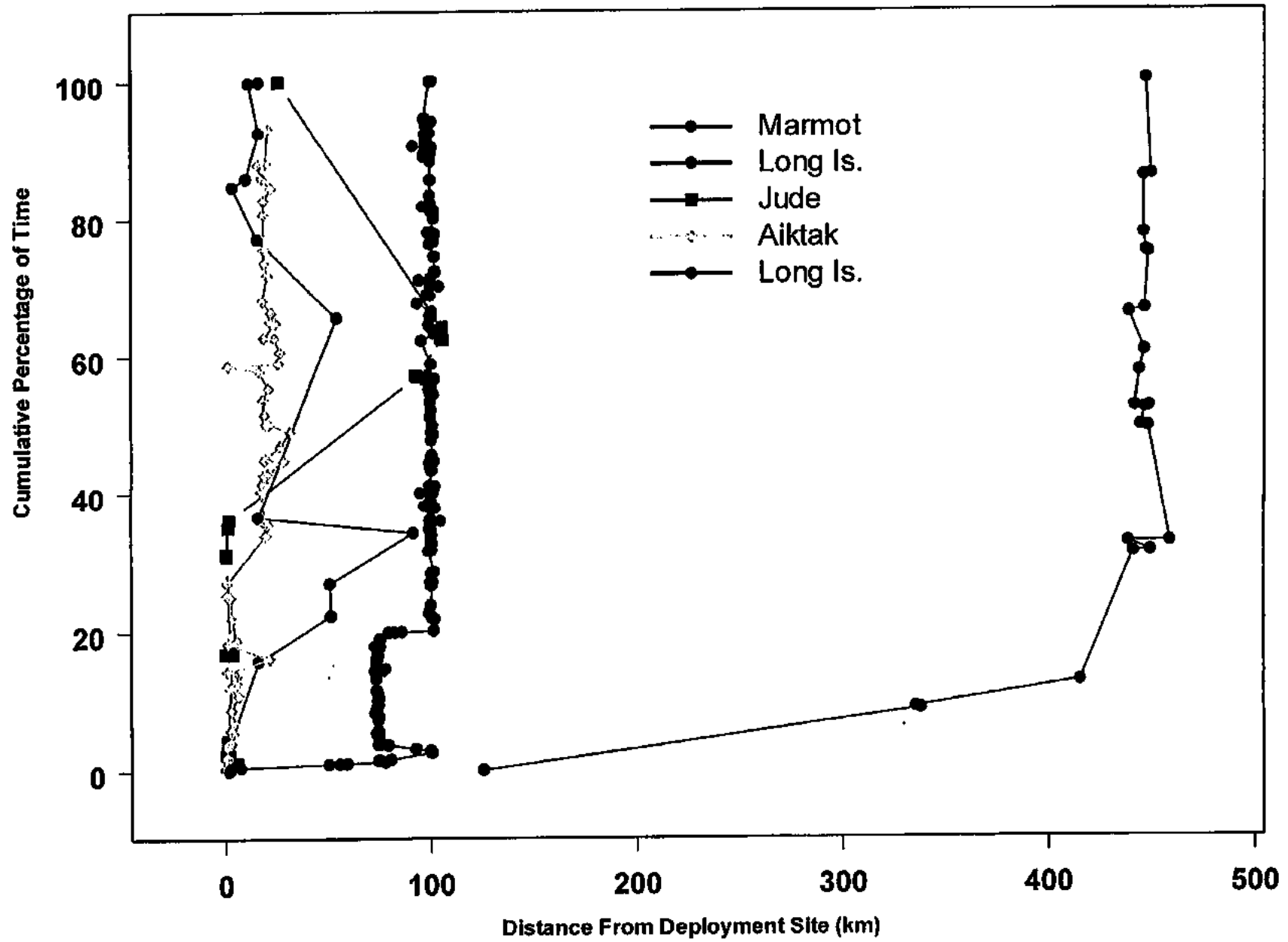
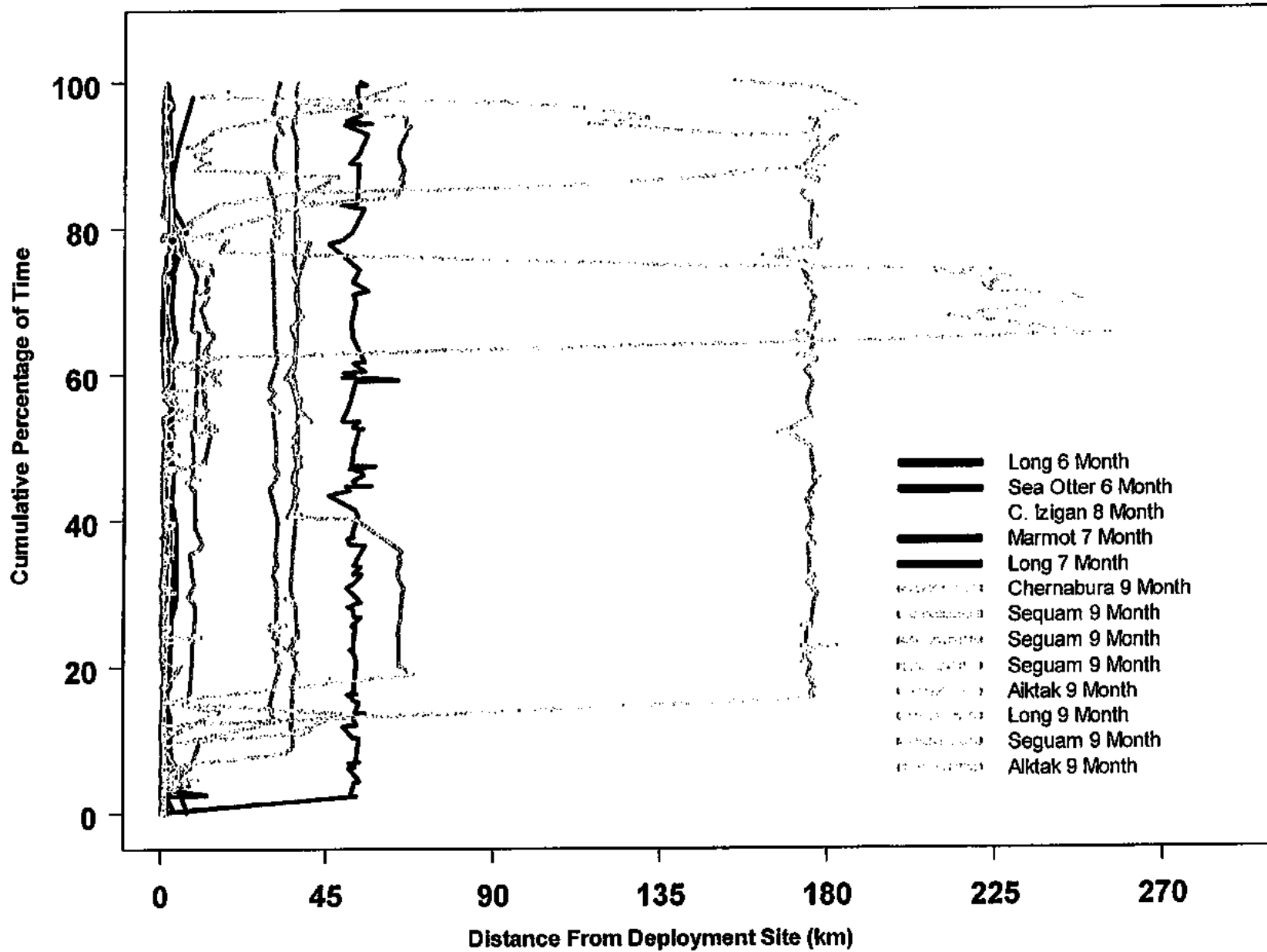


Figure 2. A 3D representation of Figure 1.

Cumulative Frequency Distribution of Locations
Juvenile Alaska Animals n=5

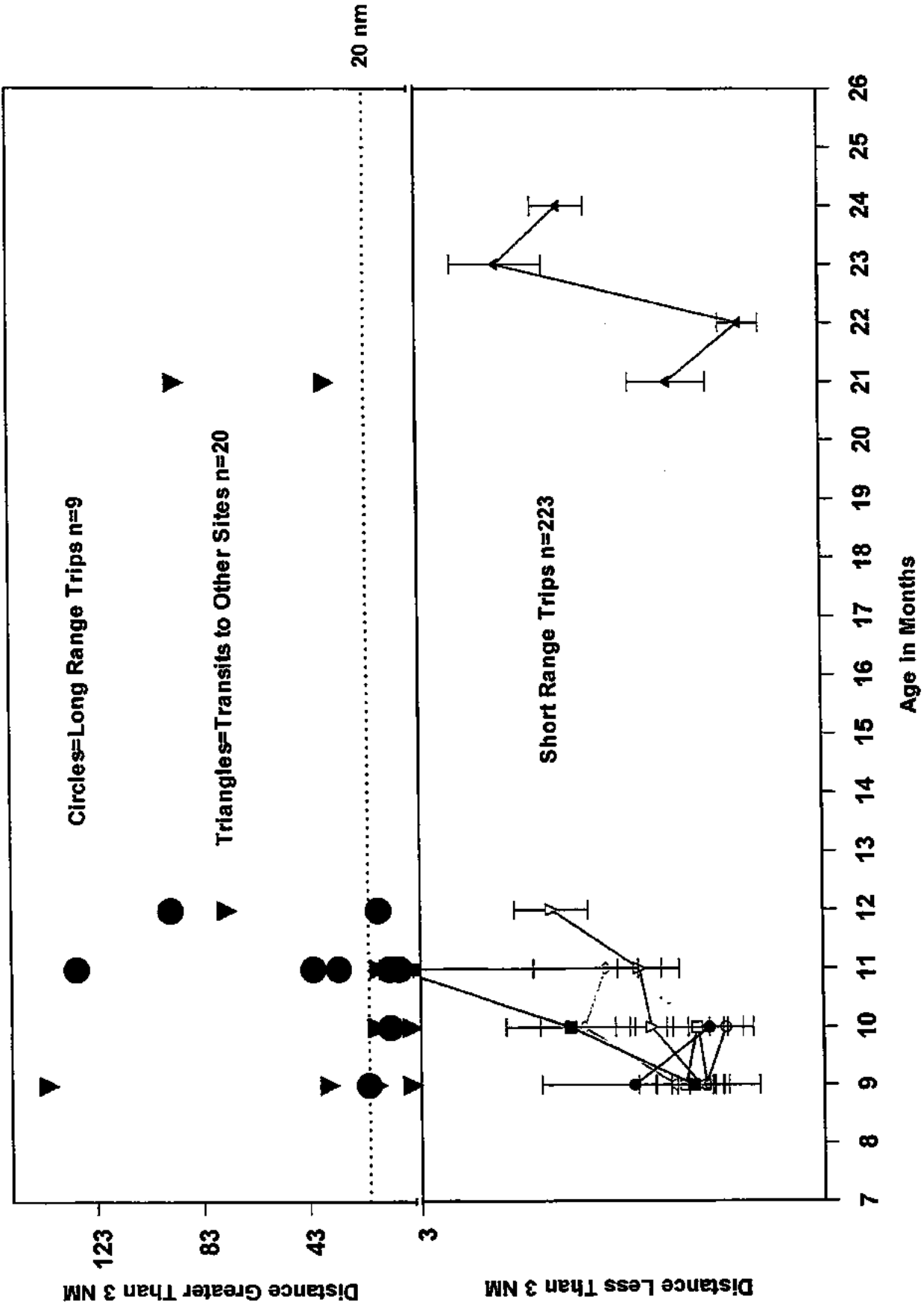


Cumulative Frequency Distribution of Locations
Young of the Year Alaska Animals n=13

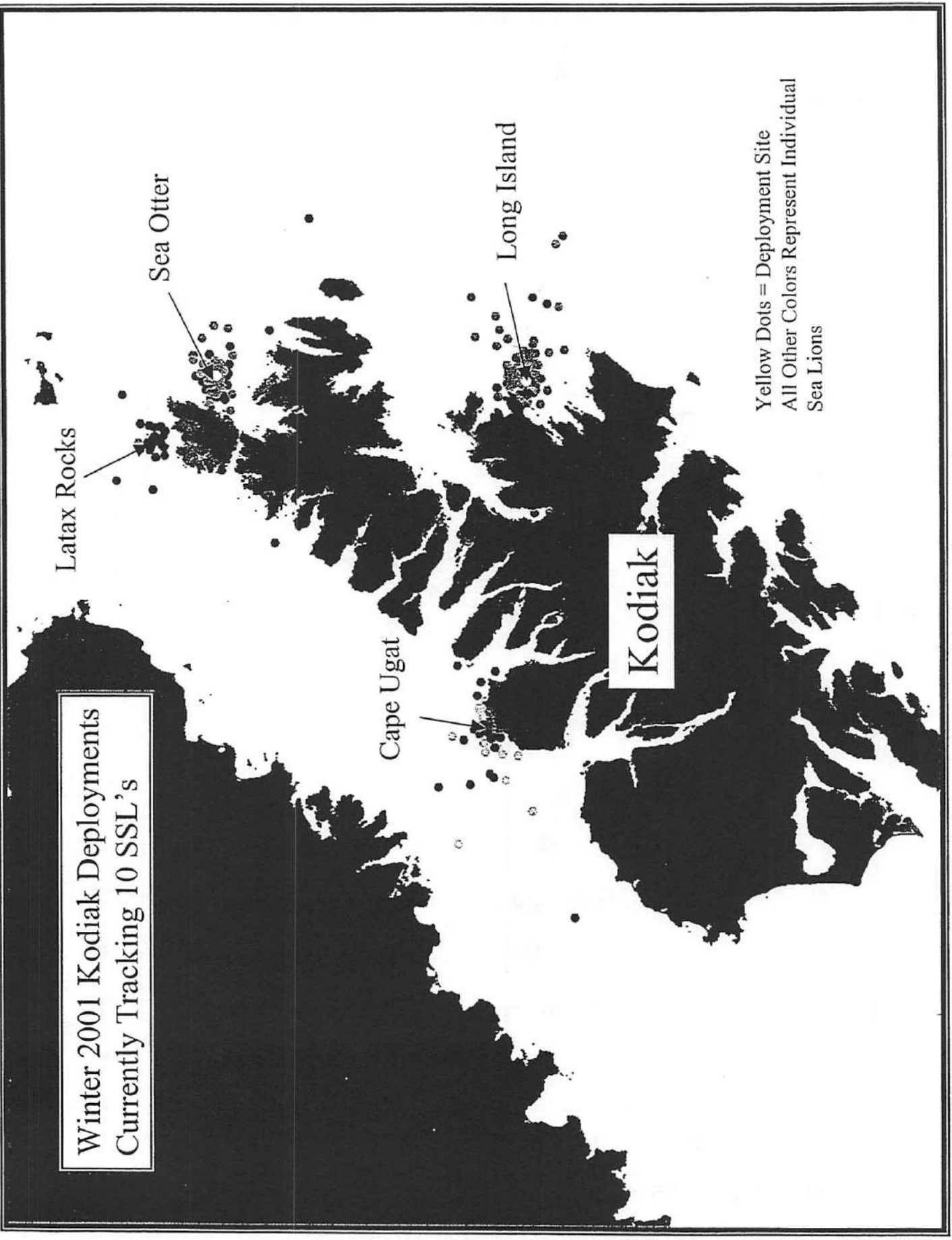


Winter 2000 Alaska Trip Distances

n=8

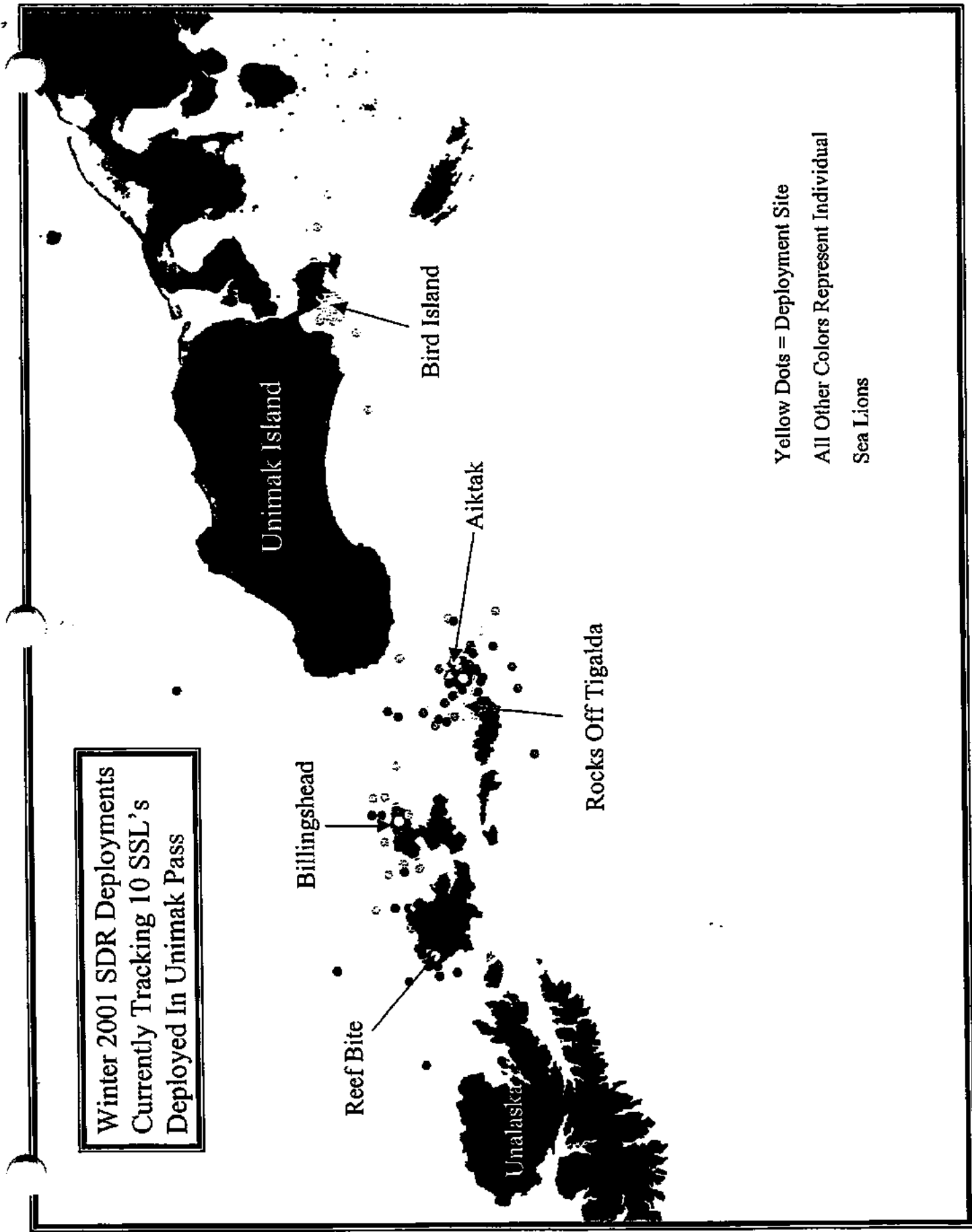


Winter 2001 Kodiak Deployments
Currently Tracking 10 SSL's



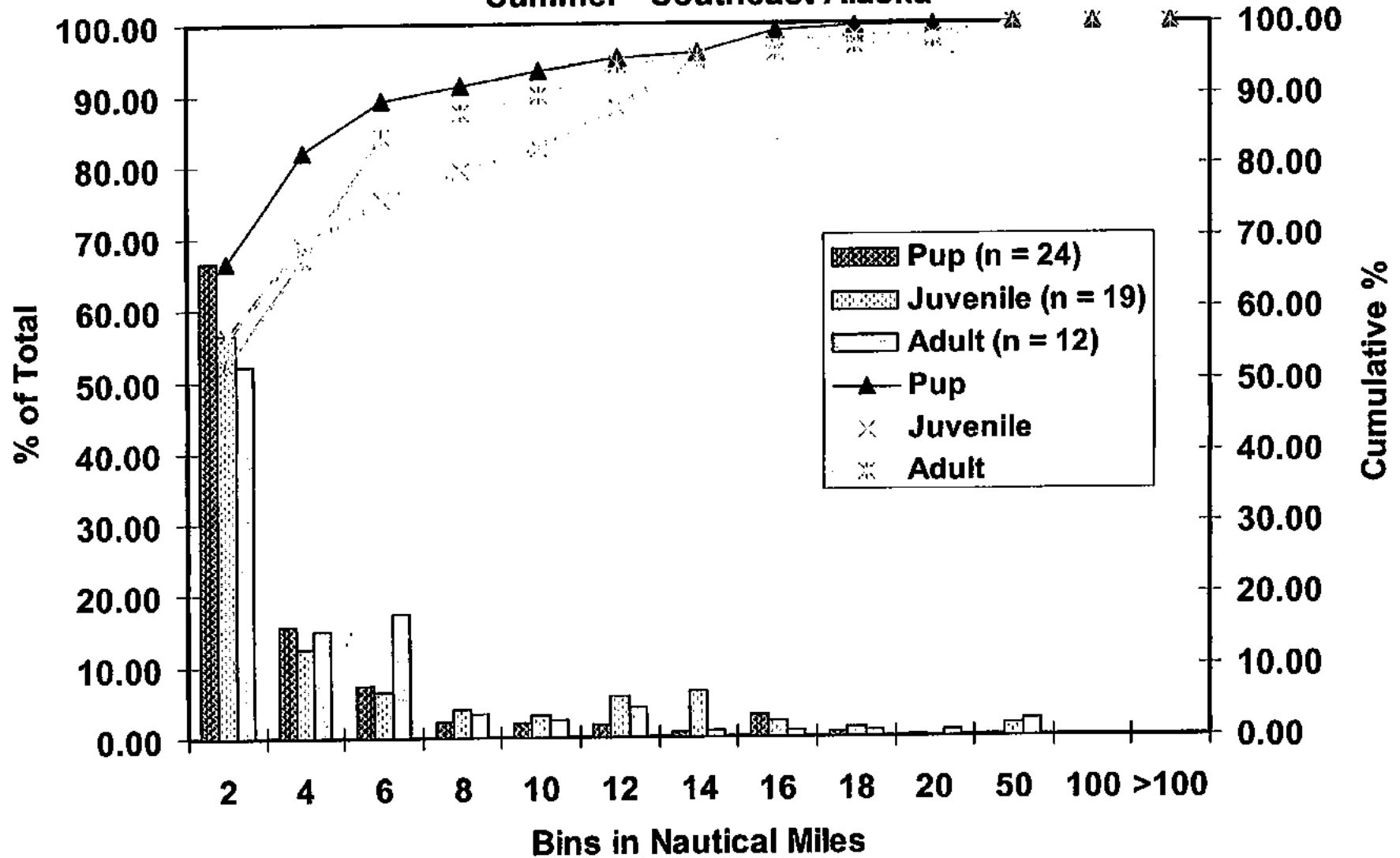
Yellow Dots = Deployment Site
All Other Colors Represent Individual
Sea Lions

Winter 2001 SDR Deployments
Currently Tracking 10 SSL's
Deployed In Unimak Pass

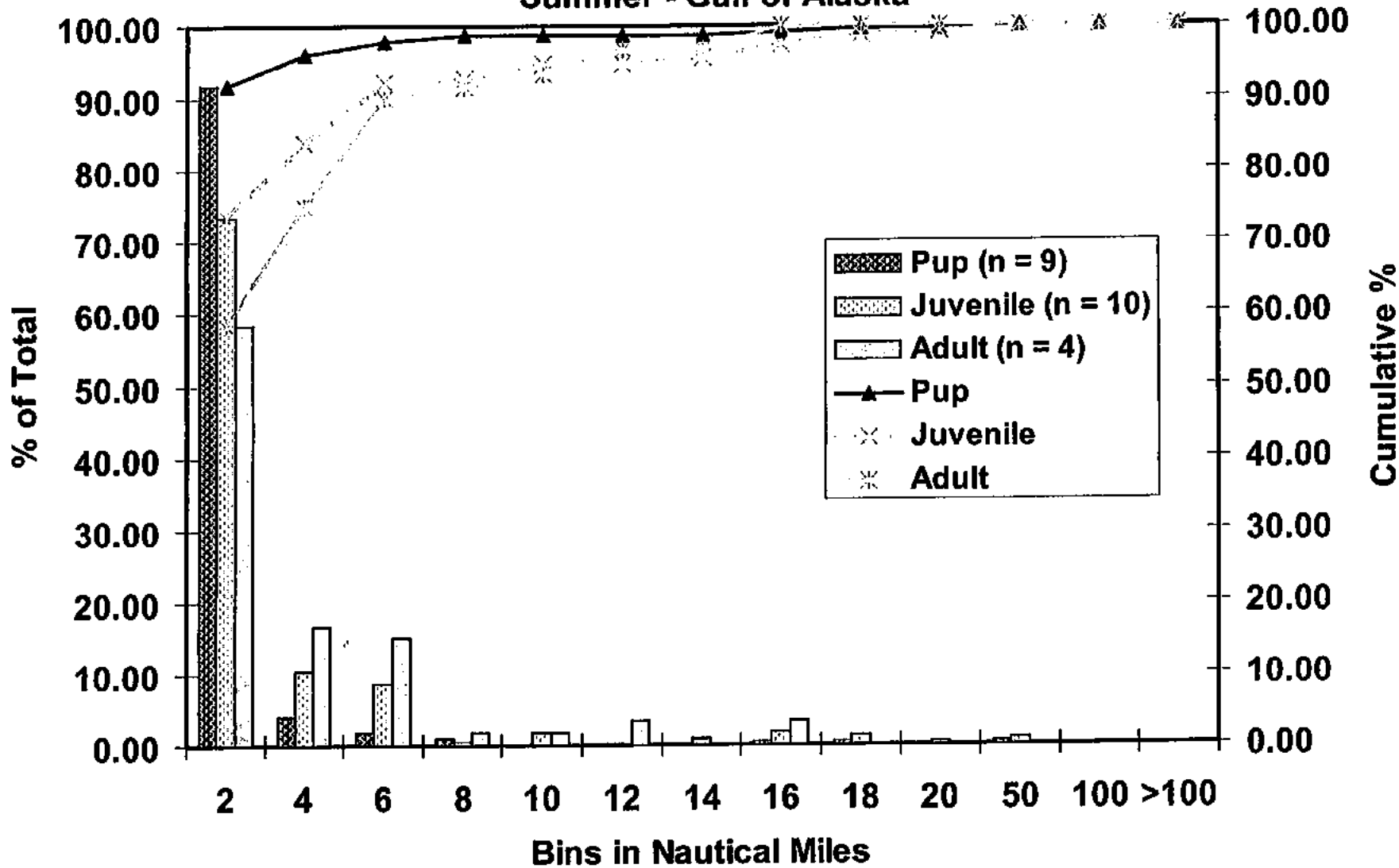


Yellow Dots = Deployment Site
All Other Colors Represent Individual
Sea Lions

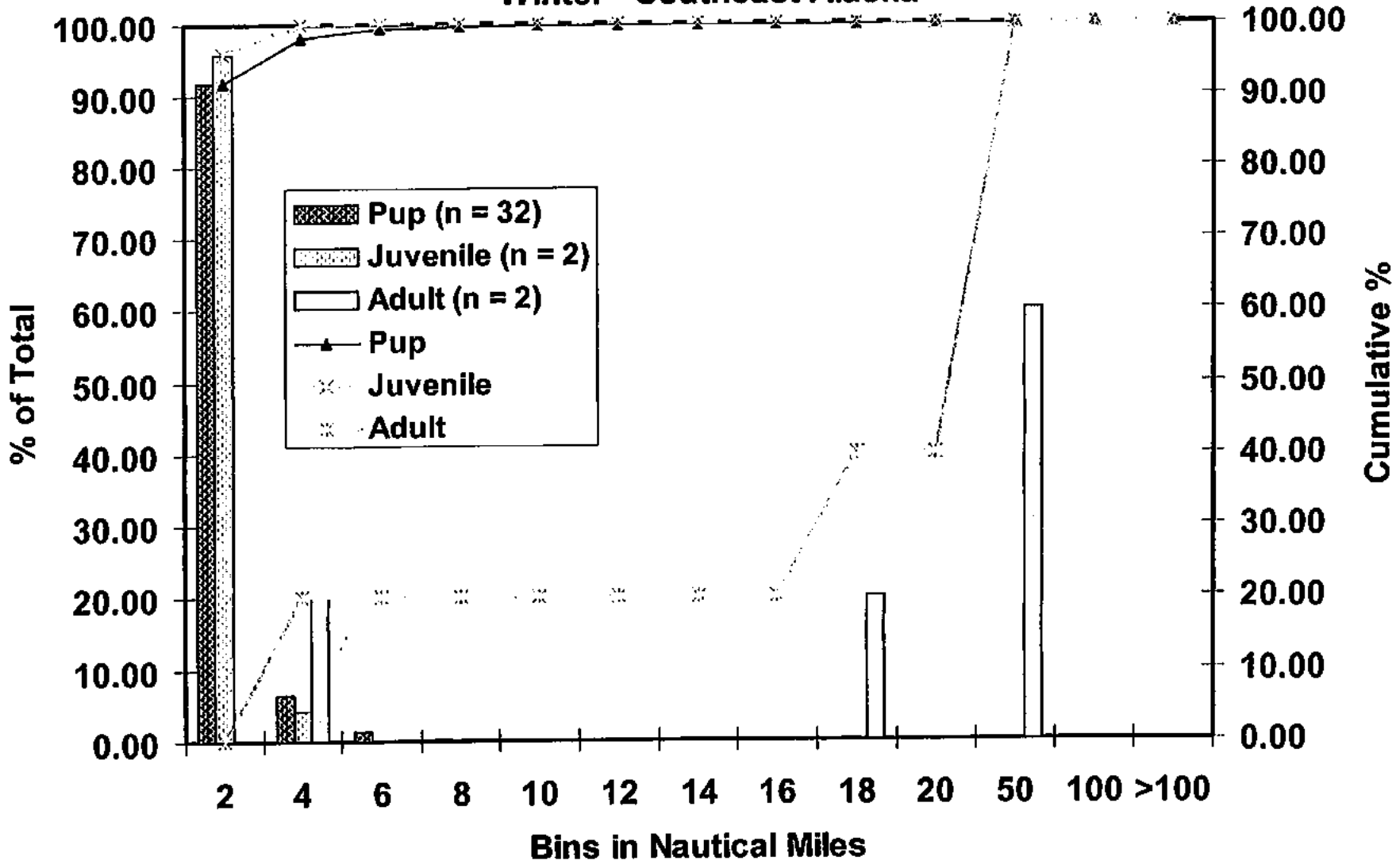
Distance Between Nearest Land Mass and At-Sea Locations Summer - Southeast Alaska



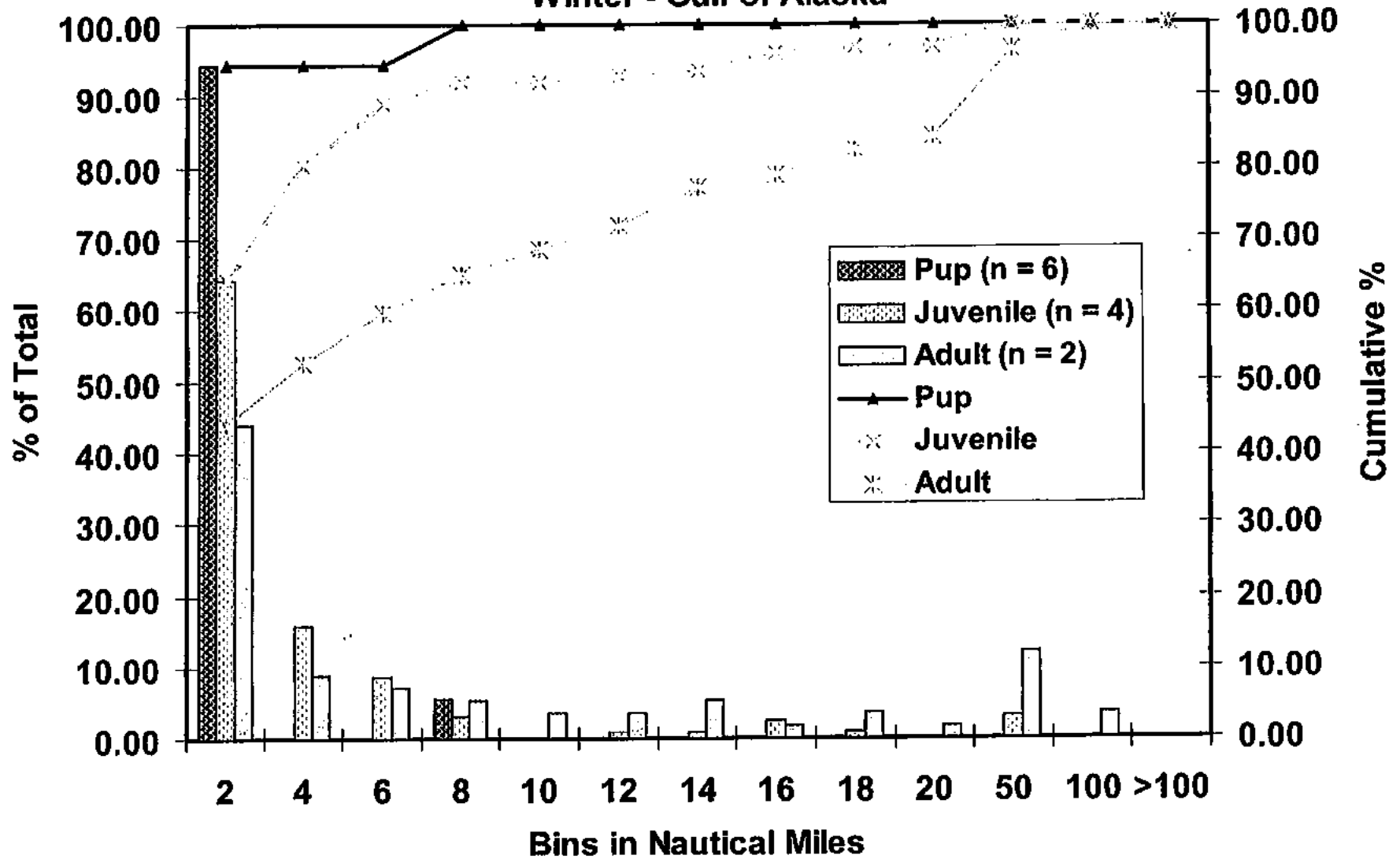
Distance Between Nearest Land Mass and At-Sea Locations Summer - Gulf of Alaska



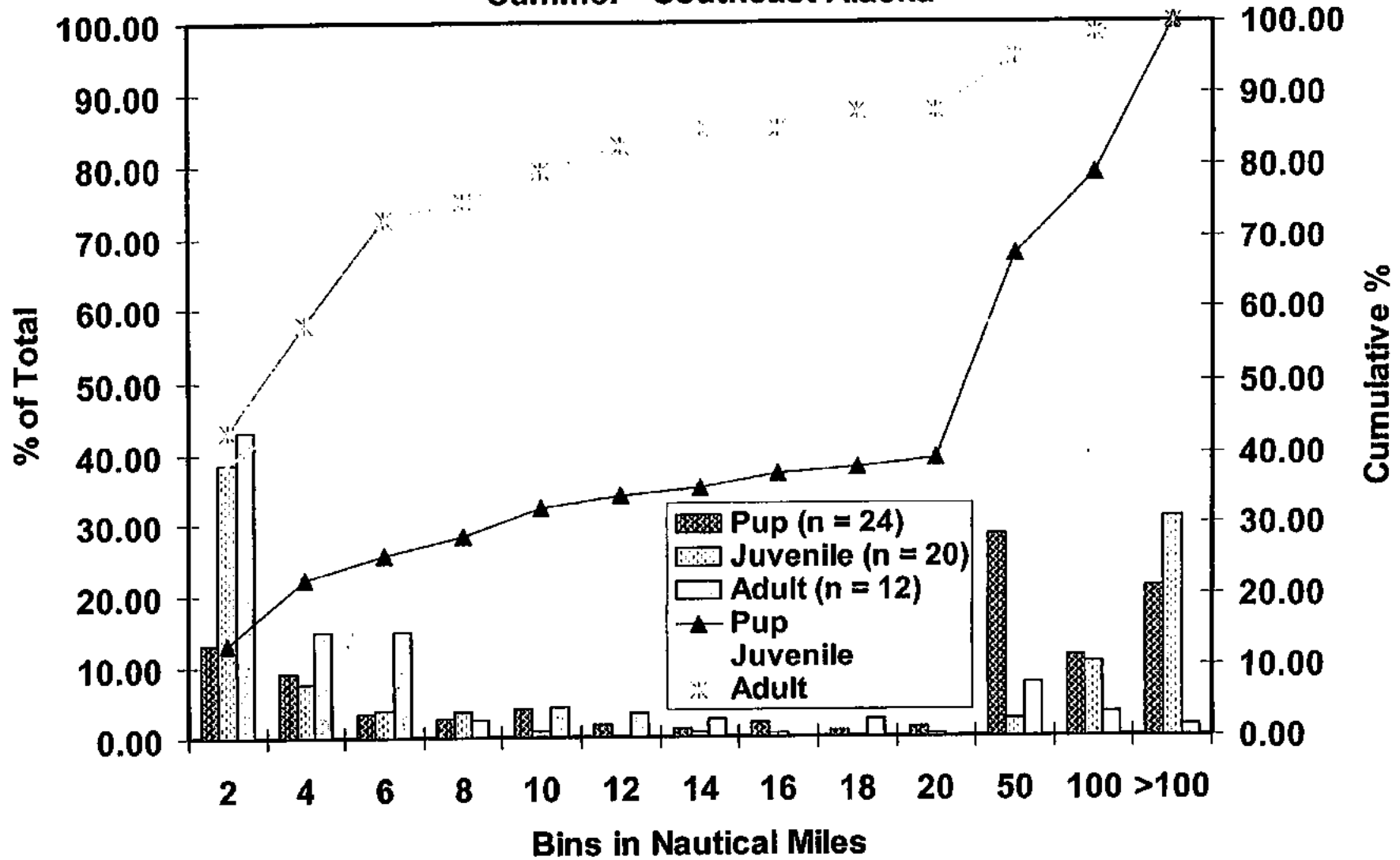
Distance Between Nearest Land Mass and At-Sea Locations Winter - Southeast Alaska



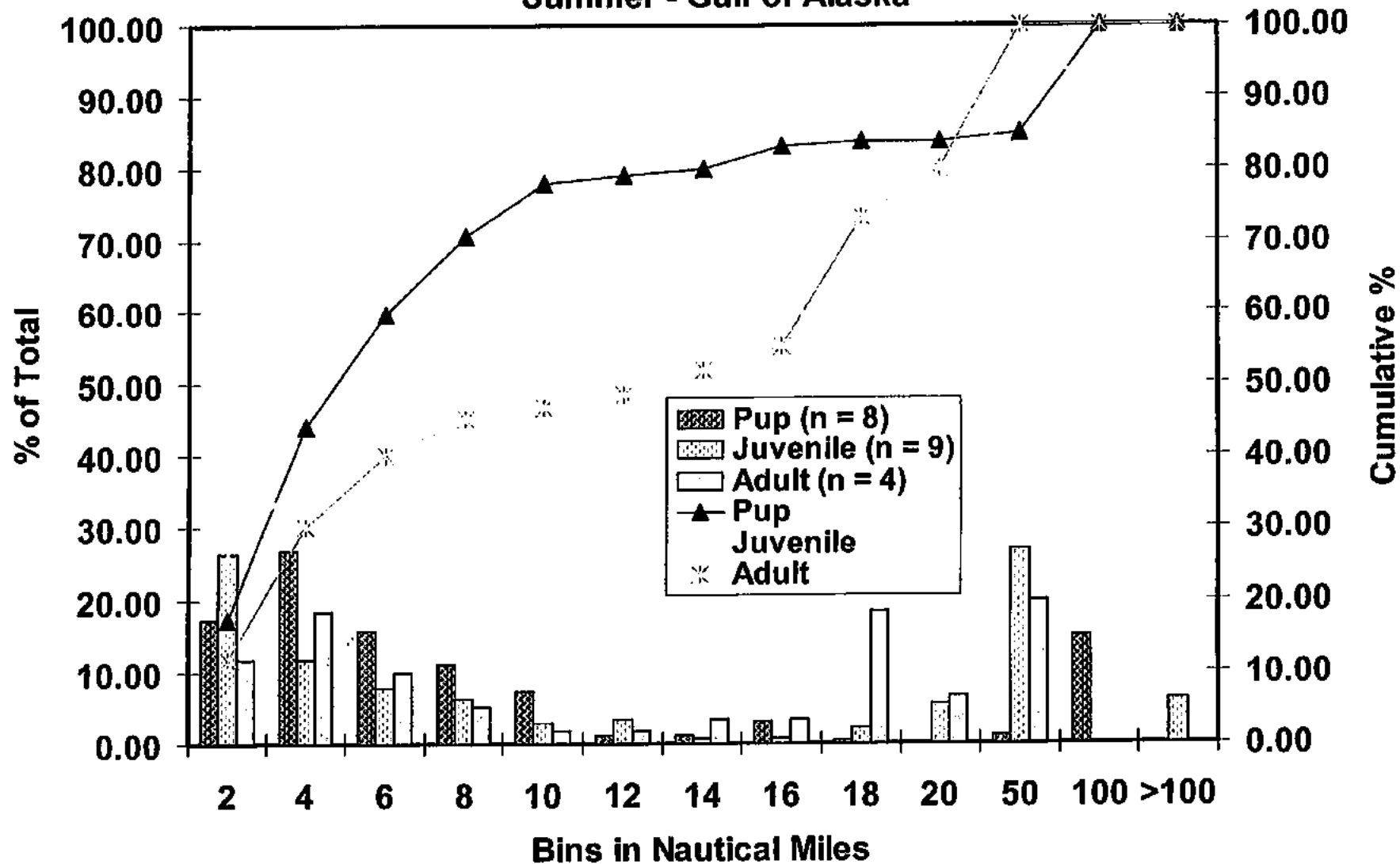
Distance Between Nearest Land Mass and At-Sea Locations Winter - Gulf of Alaska



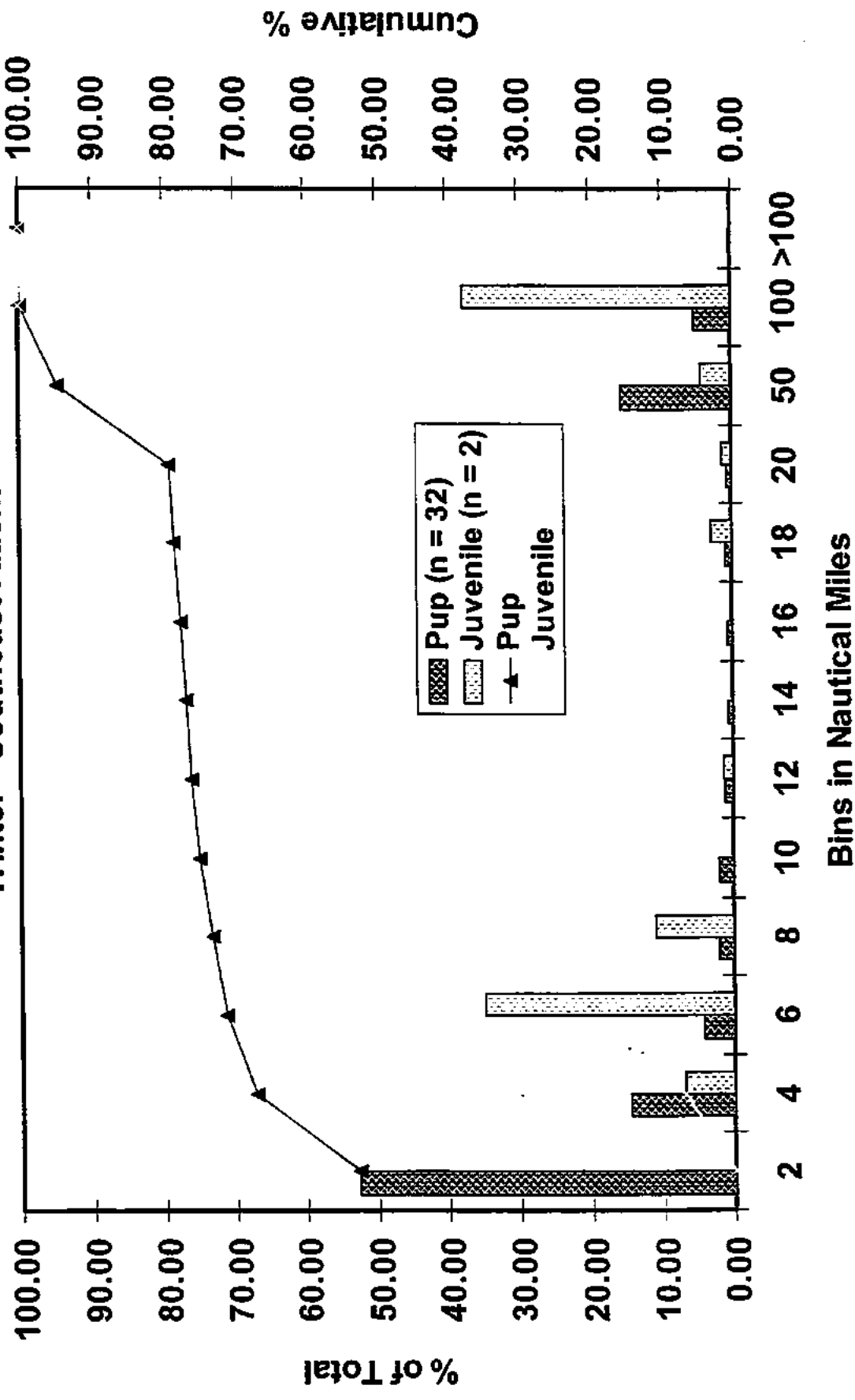
Distance Between Deployment Site and At-Sea Locations Summer - Southeast Alaska



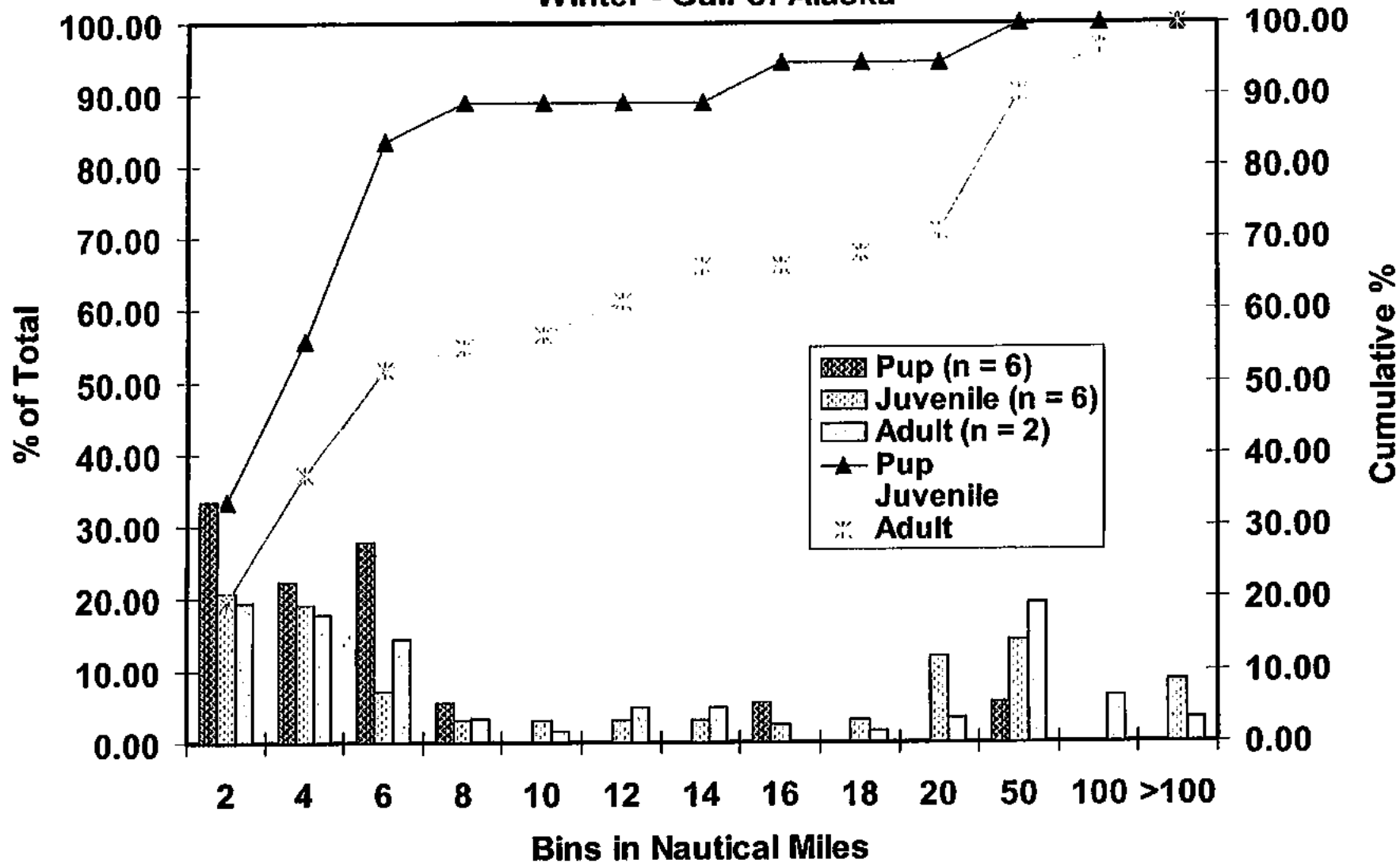
Distance Between Deployment Site and At-Sea Locations Summer - Gulf of Alaska



Distance Between Deployment Site and At-Sea Locations Winter - Southeast Alaska



Distance Between Deployment Site and At-Sea Locations Winter - Gulf of Alaska



April 11, 2001

Chairman David Benton
North Pacific Fishery Management Council
605 W. 4th Street, Suite 306
Anchorage, AK 99501-2252

Dear Chairman Benton:

As members of the RPA advisory committee, we are sorry not to be able to join you and other Council members as you begin to deliberate potential adjustments to the open and closed groundfish fishing areas for the second half of 2001. Attached for your consideration is the proposal that we offer to the RPA committee. It is based on the scientific principles contained in the biological opinions of December 1998 and November 30, 2000. Doug DeMaster acknowledged that these principles are sound principles on which to base actions to eliminate jeopardy and adverse modification.

These principles are as follows:

1. At the global scale, reduce catch levels.
2. At the regional scale, disperse fisheries in time and space inside and outside critical habitat.
3. At the local scale within critical habitat (fixed gear only), employ daily catch rates, vessel size limits, and gear restrictions.
4. Trawl exclusion from all critical habitat.

While we acknowledged to the RPA Committee that reducing catch levels might be a longer term proposal and not one that was reasonable to accomplish for the second half of 2001, it seemed as if the rest of these principles could, at least in a limited manner, be employed through adjustments at this week's meeting.

Thank you for consideration of our proposal. Best wishes for a successful meeting.

Sincerely,



Gerald Leape
Marine Conservation Program Director
National Environmental Trust



David R. Cline
Director, Alaska Field Office
WWF Bering Sea Ecoregion Program

A BIOP RPA ALTERNATIVE PROPOSAL: A "LOW AND SLOW" APPROACH

Summary

On July 19, 2000, all groundfish trawl fishing off Alaska was enjoined by court order within Steller sea lion critical habitat west of 144W long., pending preparation of a Programmatic FMP-level Biological Opinion (FMP BiOp) by NMFS. With the release of that Section 7 consultation FMP BiOp in November 2000, NMFS concluded that the groundfish fisheries as a whole jeopardize Steller sea lions and adversely modify sea lion critical habitat, requiring new and more comprehensive RPA regulations for pollock, Atka mackerel and Pacific cod fisheries. Those reasonable and prudent alternative (RPA) measures have not been enacted and the fisheries are operating under emergency RPA rules based on 1999-2000 revised pollock RPA regulations during the first half of 2001. These rules fall far short of what is required in the FMP BiOp and are not adequate to insure that jeopardy and adverse modification are avoided. Therefore the groundfish fisheries are operating illegally, in violation of the Endangered Species Act.

The goal of any acceptable alternative to the emergency rules should be to design a fishery based on levels of fishing highly likely to avoid competition with Steller sea lions at the three scales of competitive interaction identified by NMFS in the FMP BiOp. The RPA package must include the following elements:

1. At the global scale, reduce catch levels.
2. At the regional scale, disperse fisheries in time and space inside and/or outside critical habitat.
3. At the local scale within critical habitat, employ daily catch rates, vessel size limits, and gear restrictions.
4. Reduce prey competition in nearshore habitats

Our proposal accomplishes the goal by utilizing Alternative 2.1 (the "Low and Slow" fishing strategy) in the North Pacific Groundfish Draft Programmatic SEIS as a framework for developing an RPA alternative. Our RPA alternative will:

1. Reduce total catch levels for pollock, Atka mackerel and Pacific cod. Spawning stock biomass for these important forage fishes should be maintained at high levels relative to the average stock size expected under unfished conditions in order to avoid adverse impacts to Steller sea lions and other predators in the North Pacific food web. TAC reductions of comparable magnitude as those envisioned in Draft Programmatic SEIS Alternatives 2.1 or 2.2 must be part of the RPA package of measures to avoid jeopardy and adverse modification at the global scale.
2. Scrap the proposed FMP BiOp RPA "experimental design" of open and closed areas and *eliminate all trawling* for pollock, Atka mackerel and Pacific cod in critical habitat except as prescribed for experimental fisheries of a more discrete nature with well-defined, manageable objectives and a reasonable expectation of detecting significant differences. Allow small-boat, fixed-gear cod fishing within critical habitat between 3-20 nmi with constraints on total catch,

vessel size, gear limits, as well as dispersal in time and area. Spread all three fisheries out across regional management districts and across 4 seasons both inside and outside critical habitat as described in the PSEIS Alternative 2.1, but provide for at least two-week-long stand down periods between seasons, which is missing from Alternative 2.1.

3. Require daily and weekly catch limits, vessel size limits, gear limits, vessel monitoring systems (VMS), and observer coverage on the fixed-gear cod fleet fishing inside critical habitat to address competitive interaction and minimize the impact of fishing at the point of fishing. Conduct the cod fishery in such a way that the differential effects of fixed gears on the sea lion prey base can be evaluated more systematically.
4. Continue the closure of the Aleutian Islands pollock fishery to facilitate rebuilding of a depleted stock and to insure that an important sea lion prey stock is not further reduced by fishing in this region.

I. BASIS FOR ACTION

Chronic food shortages are likely a major factor in declines of endangered Steller sea lions in western Alaska and the groundfish fisheries jeopardize sea lion survival, reproductive success, and eventual recovery

In western Alaska, Steller sea lion populations have plummeted 80-90% since the 1960s and their decline has been accompanied by large (>50%) declines in northern fur seals and Pacific harbor seals. It appears that there is a serious food availability problem for declining pinniped populations in western Alaskan waters, and NMFS has concluded that large-scale groundfish fisheries targeting important forage fish species such as walleye pollock, Atka mackerel, and Pacific cod are likely to jeopardize the continued existence of endangered Steller sea lions and adversely modify their critical habitat.¹

The biology of Steller sea lions makes them particularly vulnerable to reductions of prey caused by fisheries. Unlike true seals in the family of *Phocidae*, which build up large stores of insulating blubber and can withstand longer periods of fasting by living off the stored energy, sea lions and fur seals in the family *Otariidae* do not store large quantities of fat and are considered rather lean animals (low % body fat) even in the best of times. The relative leanness of sea lions and fur seals compared to phocid seals has implications for thermoregulation, reproduction, and fitness because water has 24x the heat conductivity of air. Sea lions and fur seals live particularly close to the edge in this respect, since they need more or less constant supplies of food to maintain proper body condition in a hypothermic

¹ NMFS ESA Section 7 Biological Opinion, November 30, 2000, p. 289: "*The preceding analysis in this biological opinion supports a determination that certain groundfish fisheries currently authorized by the FMP are likely to jeopardize the continued existence of endangered Steller sea lions and adversely modify their critical habitat. These determinations result from available evidence of competitive interaction between the fisheries for pollock, Atka mackerel and Pacific cod and Steller sea lions. This competitive interaction, occurring at the global, regional and local scales has been shown to jeopardize the continued existence of Steller sea lions by interfering with their foraging opportunities for the three major prey species resulting in reduced reproduction and survival. The reduction in survival and reproduction has enhanced decline in the numbers of sea lions relative to an unfishery action area.*"

marine environment. Ready access to food supplies in the vicinity of sites where they haul out to rest, socialize and care for dependent pups is critical to their survival.

Steller sea lions are particularly vulnerable to large-scale fishing because they are the major direct marine mammal competitor with the groundfish fisheries.² Concerns about the impacts of the big groundfish fisheries were identified long before NMFS concluded that the major groundfish fisheries jeopardize Steller sea lions in 1998 and 2000. The potential for conflict between large-scale commercial fisheries for pollock and large populations of pollock predators in the North Pacific was recognized in the final Environmental Impact Statement for the Bering Sea/Aleutian Islands Fishery Management Plan (1981). A 1982 report to the North Pacific Fisheries Management Council cited an increase in catches of the groundfish fisheries of the Bering Sea from 12,500 tons in the early 1950s to over 2.2 million tons in the early 1970s and specifically noted that large-scale groundfish fishery removals may reduce the environment's carrying capacity for Steller sea lions.³

The Bering Sea Ecosystem report (NRC 1996) concluded on the basis of the temporal and geographic pattern of fishing that fishery effects on sea lion prey availability are the only causal factor considered to have a high likelihood of explaining the declines in western Alaska, and further suggested that large-scale groundfish fisheries in the Bering Sea are a significant limiting factor in the recovery of declining top predator populations:

*"It seems extremely unlikely that the productivity of the Bering Sea ecosystem can sustain current rates of human exploitation as well as the large populations of all marine mammal and bird species that existed before human exploitation -- especially modern exploitation -- began."*⁴

The current BiOp reaches the same conclusion with regard to Steller sea lions, indicating that the current level of groundfish removal by fisheries is reducing carrying capacity and jeopardizing the species cumulatively, in addition to the more immediate and localized effects of fishing in critical habitat.

Protecting the prey base of Steller sea lions requires measures to reduce TACs as well as to disperse the fisheries temporally and spatially

Food shortage is indicated in past research on Steller sea lion body condition and reproductive rates, and is considered the likeliest explanation for the current pattern of chronic decline characterized by low juvenile survival and low birth rates for Steller females in western Alaska. However, there is no indication that these declines are due to reductions in the productive carrying capacity of the ecosystem. To the contrary, large-scale trawl fisheries targeting prime sea lion and seal prey species have expanded enormously and flourished since the 1970s in areas that supported the vast majority of these animals historically. Moreover, the fisheries have become increasingly concentrated in areas designated as

² L.F. Lowry, K. J. Frost, and T. R. Loughlin. 1988. Importance of walleye pollock in the diets of marine mammals in the Gulf of Alaska and Bering Sea, and implications for fishery management, pp. 701-725. In Proceedings of the international symposium on the biology and management of walleye pollock, Nov. 14-16, 1988, Anchorage, Alaska. Alaska Sea Grant Rep. 89-1.

³ Lowry, L. F., D. G. Calkins, G. L. Swartzman, and S. Hill. 1982. Feeding habits, food requirements and status of Bering Sea marine mammals. Document submitted to North Pacific Fisheries Management Council, Nov. 1, 1982, p. 148.

⁴ National Research Council. The Bering Sea Ecosystem. National Academy Press, Washington, D.C., 1996, p. 4.

Steller sea lion critical foraging habitat since the domestication of the fisheries after 1980,⁵ reaching record levels in the 1990s.

Critical habitat involves a determination of the physical or biological features that are essential to the conservation of the endangered species, and each federal agency must insure that its actions within the area are not likely to destroy those features that make it "critical" or adversely modify its usefulness to the species.⁶ In the case of Steller sea lions, prey resources are the most important feature of marine critical habitat.⁷ Both NMFS and the Alaska Department of Fish and Game have previously concluded that prey resources determine the carrying capacity of that habitat for sea lions,⁸ and the November 30, 2000 BiOp reaches the same conclusion:

"The value of the marine portions of critical habitat that has been designated for Steller sea lions will be determined by the abundance and distribution of prey species. The abundance of prey within these foraging areas, over time, would determine the number of predators they could support in that time; as the abundance increased, the area would be able to support more predators, as the abundance decreased, the area would be able to support fewer predators. Similarly, the distribution of prey species will determine whether prey are available to foraging sea lions and will determine whether they can forage successfully." BiOp at p. 254.

Although observed changes in sea lion condition and abundance are consistent with a reduction in carrying capacity, that is *not* to say that the change is natural in origin.⁹ The November 30, 2000 FMP-level BiOp at p. 259 identified four primary categories of fishing effects that contributed to jeopardy and adverse modification: effects of fishing on "global" biomass levels of prey stocks, effects of disturbance, and effects of temporal and spatial concentration of fishing. Reductions of prey biomass at larger spatial/temporal scales (global effects) exacerbate the localized effects of fishing in critical habitat, the most important feature of which is prey:

"The reductions of biomass at larger spatial scales would exacerbate the effects of small-scale depletions caused by fishing; because the spawning biomass in the entire ecosystem is about half of what it would be without fishing, there are fewer spawning-aged fish to replenish areas where fishing has occurred." BiOp at p. 264.

Furthermore, the extensive, persistent reduction in the abundance of prey species as a result of fishing in critical habitat and fishing at conventional single-species fishing mortality rates "could effectively keep

⁵ Biological Opinion on 2000 TAC Specifications for BSAI and GOA Groundfish Fisheries and the AFA, December 22, 1999, p. 106.

⁶ NMFS. Estimated Catches of Walleye Pollock, Atka Mackerel, and Pacific Cod Within Critical Habitat of the Steller Sea Lion in the Bering Sea, Aleutian Islands, and Gulf of Alaska from 1977-1992. AFSC Processed Report 93-13.

⁷ NMFS. Biological Opinion on Groundfish Fisheries in the BSAI and GOA. December 3, 1998, p. 62.

⁸ NMFS Biological Opinion on 2000 TAC Specifications for the BSAI and GOA and American Fisheries Act, December 22, 1999, p. 66. ADF&G. Overview of State-Managed Marine Fisheries in the Central and Western Gulf of Alaska, Aleutian Islands and Southeastern Bering Sea with Reference to Steller Sea Lions. Regional Information Report 5J00-10. October 12, 2000, p. 19: "Prey resources are not only the primary feature of Steller sea lion critical habitat, but they also appear to determine carrying capacity of the environment for Steller sea lions."

⁹ NMFS Biological Opinion on 2000 TAC Specifications for the BSAI and GOA and American Fisheries Act, December 22, 1999, p. 66. ADF&G. Overview of State-Managed Marine Fisheries in the Central and Western Gulf of Alaska, Aleutian Islands and Southeastern Bering Sea with Reference to Steller Sea Lions. Regional Information Report 5J00-10. October 12, 2000, p. 19.

the carrying capacity of critical habitat for Steller sea lions below the current population size." BiOp at pp. 264-265.

- Fishing under the F40% harvest policy has considerably reduced the potential spawning stock biomass of fully targeted species over the last 20 years. FMP BiOp, p. 225.
- This long-term reduction on the order of 40-60% is reasonably likely to reduce significantly the availability of prey to other components of the ecosystem, such as Steller sea lions. FMP BiOp, p. 225.
- This stock-wide reduction in biomass has decreased the effective carrying capacity for sea lions and altered critical habitat to the extent that its most important feature (the prey base) is diminished even before fishing begins at the start of each year. FMP BiOp, p. 259.

Given the intense concentration of these large-scale fisheries in critical habitats that only 30 years ago supported the largest populations of Steller sea lions in the world, combined with the long-term effects of fishing down the stock biomass of important sea lion prey fishes under the MSY-based F_{40%} harvest policy, there is every reason for shifting fishing effort out of critical habitat and reducing catch levels for important sea lion prey species in order to maintain prey stock biomass at high levels relative to the unfished condition.

II. DRAFT PROGRAMMATIC SEIS ALTERNATIVE 2.1: A FRAMEWORK FOR DEVELOPING AN ADEQUATE RPA ALTERNATIVE

The goal of any acceptable alternative to status quo should be to design a fishery based on levels of fishing highly likely to avoid competition with Steller sea lions at the three scales of competitive interaction identified by NMFS in the November 30, 2000 Programmatic FMP BiOp. The RPA package must include the following elements:

- At the global scale, reduce overall catch levels and maintain higher biomass of prey stocks.
- At the regional scale, disperse fisheries in time and space inside and/or outside critical habitat.
- At the local scale within critical habitat, employ daily catch rates, vessel size limits, and gear restrictions to minimize the impacts of fishing at the point of fishing.

A. Global Scale

The RPA's Global Control Rule does not maintain stocks above the B40% "target" stock size much less address the cumulative adverse effects of the F40% harvest policy under the FMPs that were identified in the FMP BiOp

The FMP BiOp concludes that the intent of the F_{40%} harvest policy (i.e., to reduce targeted stocks to about 40% of stock size that would be expected on average in the absence of fishing) jeopardizes Steller sea lions. In 1999, for instance, the FMP BiOp estimates that the fisheries had *reduced the combined female spawning biomass for pollock, cod, and Atka mackerel to 45% of the expected unfished*

level (FMP BiOp, p. 224). This cumulative effect on multiple prey stocks has occurred over the last 20 years (see FMP BiOp, Figures. 6.16 and 6.17), resulting in the estimated 55% decline in aggregate spawner biomass of pollock, cod, and Atka mackerel by 1999. The FMP BiOp concludes that the cumulative effect of the default $F_{40\%}$ harvest policy diminishes the prey base "globally" and reduces the effective carrying capacity of sea lion critical habitat *even before fishing starts at the beginning of each year*.

The Endangered Species Act requires responsible federal agencies to address survival *and* recovery of endangered species. However, the November 30, 2000 BiOp RPA substitutes the so-called "Global Control Rule" for lower F rates and correspondingly lower TACs. By proposing no change to the status quo $F_{40\%}$ harvest policy under the FMPs, the BiOp RPA's Global Control Rule virtually ensures that carrying capacity for Steller sea lions will continue to decline or, at best, to "equilibrate" at the currently endangered level. This maneuver illegally attempts to lower the bar for recovery by establishing the currently endangered SSL population as the new management baseline. In this way NMFS makes a mockery of recovery, which should be based on historical numbers of sea lions from the period *before* the decline was first documented in the 1970s by Braham et al. (1977, 1980).

As a remedy for the shortcomings of the FMP BiOp RPA and management under emergency RPA rules, we offer examples from the Groundfish Draft Programmatic SEIS (PSEIS). PSEIS Alternatives 2.1 and 2.2 propose TAC reductions for pollock, Pacific cod and Atka mackerel totaling 33% and 96%, respectively (PSEIS 4.2, p. 24).¹⁰ Under the approach of Alternative 2.1, for instance, overall TACs are to be reduced by the best estimate of the portion of biomass in closed areas of critical habitat. At Draft PSEIS 4.4, pp. 10-12, NMFS says that expected BS/AI and GOA pollock spawning stock biomass would increase 23% and 74%, respectively, from 2001-2005 under Alternative 2.1 (relative to Alternative 1), and 67% and 74%, respectively, under Alternative 2.2 (relative to Alternative 1). Similar effects are expected for Pacific cod (PSEIS 4.4, pp. 35-36). No estimates are given for Atka mackerel but TAC would be reduced 67% and therefore spawning stock biomass would be expected to increase. The effect of fishery removals on Steller sea lions is significantly reduced in both alternatives (PSEIS 4.2, p. 22) by reducing fishing pressure on age 3- to 10-year-old fish and generally making more prey available in the ecosystem (PSEIS 4.4, p. 12).

Like the October 1999-2000 pollock RPAs, the November 2000 FMP BiOp RPA fails to address the effects of independently derived ABC and TAC levels from the single-species stock assessment models (see PSEIS 4.2, p. 9). By proposing no change to the status quo $F_{40\%}$ harvest policy under the FMPs, the RPA's Global Control Rule illegally attempts to establish the currently endangered Steller sea lion population as a management baseline for recovery and virtually ensures that carrying capacity for sea lions will continue to decline or, at best, to "equilibrate" at the currently endangered level. A more conservative harvest policy that produces lower TAC levels is required to address jeopardy at the global level of the stocks as a whole and facilitate recovery of the species. TAC reductions of comparable magnitude as envisioned in Draft Programmatic SEIS Alternatives 2.1 or 2.2 must be part of the RPA package of measures to avoid jeopardy and adverse modification at all three scales of competitive interaction identified in the FMP BiOp.

a. Regional Scale

¹⁰ Table 4.2-6, total estimated reduction in catch from all fisheries under Alternative 2.1 and 2.2.

Eliminating direct competition in critical habitat: the case for eliminating all trawling for pollock, cod and Atka mackerel in critical habitat

The proposed area closures of all sea lion critical habitat under Alternative 2.1 comprise 386,770 km² of ocean surface, or 12% of the fishery management regions west of 150 degrees W. longitude (PSEIS 4.2, p. 9). These closed areas comprise approximately 15% of the total shelf area <200 m depth in the BS/AI and 40% of the shelf area in the GOA (PSEIS 4.4, p. 33). Under Alternative 2.1, the "low and slow" approach, the objectives are to spread the 3 affected fisheries in space and time as in the Oct. 1999 pollock RFRPA and the Nov. 2000 FMP BiOp, but 2.1 provides far greater protection to critical habitat by closing all critical habitat to fishing for pollock, cod and Atka mackerel (PSEIS 4.1, p. 26). We conclude that complete exclusion of these trawl fisheries is the only way to insure that direct competition with sea lions in critical habitat is eliminated.

In the supporting documentation for Amendments 25 and 20 to the Fishery Management Plans of the GOA and BS/AI (Prohibition of all groundfish trawling in the vicinity of sea lion rookeries, 1991), NMFS recommended a prohibition on *all* trawling in the vicinity of rookeries because: (1) trawl fisheries account for the majority of the catch of species of concern in critical habitat; (2) trawlers have higher bycatch of non-target prey species including juvenile pollock, squid, octopus, salmon, herring, capelin, and sand lance, as well as flatfishes, rockfishes, and shellfish, any number of which may serve as important seasonal or secondary items in the sea lion diet, depending on availability; (3) trawlers are the primary source of lethal incidental entanglements in nets; (4) trawlers are responsible for benthic habitat disturbances and changes in species composition.¹¹ Similarly, FMP BiOp at p. 215 states that trawl fishing accounts for 86% of the catch in the BSAI and 73% in the GOA, and is therefore the major concern with regard to fishing effects on the sea lion prey base.

NMFS has not demonstrated that *any* level of trawling in critical habitat will avoid jeopardy or adverse modification. The currently proposed RPA "experimental design" of open and closed areas of critical habitat is not adequate to avoid jeopardy and adverse modification of critical habitat, and is very poorly designed. It should be scrapped. Prey is the most essential feature of critical habitat and the prey base determines carrying capacity for sea lions. Currently sea lions have declined 80-90% throughout their range in western Alaska since the 1970s and continue to decline 4-7% per year. The pattern of decline indicates that sea lions are prey-limited and that carrying capacity for sea lions has declined and continues to decline drastically. The fact that major fisheries targeting major sea lion forage species have flourished throughout the period of sea lion decline does not indicate a natural decline in abundance of these prey species. Increasingly since the 1970s and early 1980s these fisheries have concentrated their catches in sea lion critical habitat, reaching record levels in the mid-1990s. Even with reductions in trawling in critical habitat envisioned under the FMP BiOp's RPA, NMFS fails to address interactive competition from disturbance of trawl gear on prey as discussed in the FMP BiOp at p. 264.¹² There is no basis for allowing these trawl fisheries to operate in critical habitat, targeting prime sea lion prey.

¹¹ North Pacific Fishery Management Council/NMFS. 1991. EA/RIR for Amendments 25 and 20 to the FMPs for Groundfish of the GOA and BSAI (Proposed Prohibition to Groundfish Trawling in the Vicinity of GOA and BSAI Steller Sea Lion Rookeries).

¹² NMFS FMP BiOp at p. 264: "The groundfish fisheries can cause dense schools of prey species to scatter which affects the foraging behavior of marine mammals and seabirds that target aggregated prey (Brock and Riffenburgh 1960; Dayton et al. 1995, and others). Repeatedly causing fish schools to scatter and reducing their density would also reduce the value of the

The closure of critical habitat to all trawling for pollock, cod and Atka mackerel, as described in the Draft Programmatic SEIS Alternative 2.1, is the only reasonable way to insure that jeopardy and adverse modification of critical habitat are avoided, as required by the ESA.

Proposed modifications to the fixed-gear cod fishery

To the extent that any level of fishing for these groundfish species is justified in critical habitat, the justification should be based on a the use of the most selective and least disruptive fishing gears, in this case pots, jigs, and hook-and-line gear. BiOp Table 6.2 provides a summary of possible effects of harvesting groundfish in the BSAI and GOA with various gear types:

		Trawl	Hook-and-line	Pot	Jig
Percentage of total catch in 1999:	BSAI:	86%	12%	2%	0.02%
	GOA:	73%	14%	13%	0.1%
Maximum rate of removal (mt/week) in 1999:	BSAI:	96,072	10,155	5,753	47
	GOA:	18,357	4,336	4,087	34
Number of vessels in 1998:	BSAI:	166	115	79	
	GOA:	198	876	178	
Bycatch prohibited Species:		salmon herring halibut crab	halibut some crab	crab	
Effects on habitat :		Benthic modification Reduced biodiversity Incidental catch	Some benthic modification Incidental catch		not applicable

BiOp at p. 215 states that trawl fishing accounts for 86% of the catch in the BSAI and 73% in the GOA, and that the fixed gears are likely to have less adverse effects on critical habitat: "*In terms of effects on ESA-listed species, the slower and more dispersed nature of the hook and line and pot fisheries make localized depletion less likely than would be possible with trawl gear.*" BiOp at p. 257 states that that the potential effects of non-mobile gear are dwarfed by the magnitude of biomass removals by the trawl sector catch.

We propose a slower-paced, lower-impact cod fishery in which much less catch is taken from critical habitat and *only* by smaller fixed gear vessels. Our cod alternative can be summarized briefly as follows:

- prohibit trawling in critical habitat for pollock, Atka mackerel and Pacific cod

foraging areas to Steller sea lions by increasing the amount of time and energy [that] sea lions would have to expend to feed on the same number of fish."

- allow for continued cod fishing in critical habitat by pots, jigs, and longline catcher vessels in compliance with the Steller sea lion Biological Opinion guidelines for temporal and spatial dispersion of the catch
- disperse the TAC spatially according to cod biomass distribution by broad management areas
- further disperse the fixed gear catch in critical habitat by staggering the distribution of pot, jig and longline effort to avoid concentrated, large-scale removals and localized depletions inside or outside critical habitat: pots, jigs and small longliners beyond 3 nmi; pots, jigs, and longline catcher vessels beyond 10 nmi; and all fixed gear and trawl vessels beyond 20 nmi
- disperse the TAC evenly across four seasons and establish daily and weekly catch limits to avoid the intense concentration of the catch in the winter season and slow down the fisheries during any season, thereby further reducing the likelihood that fixed gear catches in critical habitat will cause localized depletions or undue disturbance of the prey field for sea lions

COD FIXED-GEAR SPATIAL DISPERSION

Rookeries and Haulouts:

0-3 nmi	3-10 nmi	10-20 nmi	Beyond 20 nmi
no fishing zone around rookeries and haulouts	pots*, jigs, and small longliners (<60 ft)**	pots, jigs, small longliners and catcher longliners >60 ft.	pots, jigs, small longliners, catcher longliners, freezer longliners, and trawlers
* 60 pot/vessel limit			
** Vessel monitoring system (VMS) and 30% observer coverage vessels <60 ft			

Aquatic Foraging Areas:

- Prohibit cod trawling in designated aquatic foraging habitat.
- Cap fixed gear catches at a conservative percentage (e.g., 10%) of survey cod biomass within the foraging area.

Other Spatial Measures:

- Seasonal exclusive area registration
- Use Sea Lion Conservation Area (SCA) instead of critical habitat as the management area for purposes of cod regulations in the Bering Sea
- Establish separate Bering Sea and Aleutian Islands TAC apportionments
- Distribute Gulf of Alaska TAC across management areas 610, 620, and 630
- Distribute Aleutian Islands TAC across management areas 541, 542 and 543
- Distribute Bering Sea TAC in the SCA, east of 170W long. and west of 170W long.

COD TEMPORAL DISPERSION

Bering Sea, Aleutian Islands, and Gulf of Alaska Fishing Seasons:

TWO SEASON SPLIT FOR REMINDER OF 2001 Bering Sea, Aleutian Islands Pcod Fishing Seasons:				
SEASON	FIX GEAR START DATE	FIX GEAR END DATE	TRAWL START DATE	TRAWL END DATE
"B"	JUNE 10	AUGUST 31	JUNE 10	AUG. 31
"C"	SEPT 15	OCT. 31	SEPT. 15	OCT. 31

TWO SEASON SPLIT FOR REMINDER OF 2001 Gulf of Alaska P Cod Fishing Seasons:				
SEASON	FIX GEAR START DATE	FIX GEAR END DATE	TRAWL START DATE	TRAWL END DATE
"B"	JUNE 10	SEPT. 30	JULY 1	AUG. 30
"C"	OCT. 1	DEC. 31	OCT. 20	OCT. 31

- The Secretary of Commerce should issue LLP pot endorsements to LLP-qualified trawlers to allow trawlers to fish with pot gear without penalty.
- Maintain the historic no transit zones within 3 nautical miles of sea lion rookeries
- Reduce the maximum retainable bycatch (MRB) of prey species from 20% to 5% within critical habitat.

An example achieving temporal/spatial dispersion, daily catch limits and TAC reductions in the Gulf of Alaska pollock fishery.

For purposes of illustration, using Central GOA 1999 TAC of 42935mt

A season: 1 January-31 March (30% of TAC; 12880mt in Central GOA)

.Daily catch rate not to exceed 400 mt/day

B season: 1 April-30 June (20% of TAC; 8587mt in Central GOA)

Daily catch rate not to exceed 400 mt/day

C season: 1 July-30 September (20% of TAC; 8587mt)

.Daily catch rate not to exceed 400 mt/day

D season: 1 October-December (30% of TAC; 12880mt in Central GOA)

.Daily catch rate not to exceed 400 mt/day

An example achieving temporal/spatial dispersion, daily catch limits and TAC reductions in the Bering Sea pollock fishery

. For purposes of illustration, assume 1 million metric ton Bering Sea pollock ABC allocated in four seasons east and west of 170W long. outside critical habitat with at least 15 days separating each season, and 60% of the TAC allocated to the spring/summer seasons as follows:

- A season: 20 January-15 March (20% of TAC; 200,000 mt in Bering Sea)
Assume PSEIS estimate of 40% of stock in SCA (closed area) and subtract that quantity from the A-season quota = 120,000 mt available outside SCA. Daily catch rate not to exceed 5,000 mt/day (PSEIS 4.1, p. 30, Table 4.1-7).
- B season: 1 April-1 June (30% of TAC; 300,000 mt in Bering Sea)
Assume PSEIS estimate of 20% of stock in SCA (closed area) and subtract from the B-season quota = 240,000. Daily catch rate not to exceed 5,000 mt/day in Bering Sea
- C season: 1 July-1 September (30% of TAC; 300,000 mt)
Assume EA/RIR RPA amendment (NMFS 1999) estimate of 15% of stock in SCA (closed area) during summer based on average 1990s surveys and subtract from the C-season quota = 276,000 mt. Daily catch rate not to exceed 5,000 mt/day in Bering Sea
- D season: 15 September-1 November (20% of TAC; 200,000 mt)
Assume PSEIS estimate of 25% of stock in SCA (closed area) and subtract from the D-season quota = 150,000. Daily catch rate not to exceed 5,000 mt/day in Bering Sea.

Total available pollock TAC minus reductions based on estimated pollock biomass in the SCA is 786,000 mt, equivalent to a 21% reduction in a 1 million metric ton ABC.

b. Local Scale

The rationale for addressing the impacts of fishing at the local scale is to "*ensure that the TAC is harvested in a dispersed manner such that the rate of removal does not exceed rate of replacement*" (FMP BiOp, p. 291). FMP BiOp at p. 293 cites a single temporal measure employed by the RPA, i.e., four season apportionment of TAC in critical habitat (p. 291). But four-season apportionment has already been cited as a measure under regional strategy and is not sufficient to disperse fisheries "at the local scale of relevance to individual foraging sea lions" (p. 291). Although daily catch rates were proposed in a draft RPA of November 16, 2000, which was leaked to industry, this measure was subsequently deleted from the final RPA.

To remedy this omission, the Draft PSEIS establishes daily catch limits for pollock, Atka mackerel and Pacific cod in Alternative 2.1 (PSEIS 4.1, p. 30, Table 4.1-7). Although fishing in critical habitat for these three species is prohibited inside critical habitat, the daily catch limits apply outside critical habitat. They are intended to address the effects of fishing at the local scale and they help to mitigate the impacts of fishing which is concentrated on the boundaries of critical habitat (the edge effect). They slow down the fisheries and reduce the intense temporal concentration of these fisheries that has occurred in the past decade. However, the choice of daily catch limits was based on *average* daily catch rates, which may be too high. As amended to exclude the Aleutian Islands pollock fishery, we tentatively propose the following daily catch limits:

Species	Area	Daily Catch Rate (mt/day)
Pollock	Eastern Bering Sea	5,000
Pollock	Aleutian Islands	NA
Pollock	GOA	1,000
Pacific cod	BSAI	600
Pacific cod	GOA	400
Atka mackerel	BSAI	300

In our proposed alternative, daily catch limits would apply to fixed-gear cod fishing inside critical habitat and to all other fishing for these species outside critical habitat. In addition, we further disperse the fixed gear catch in critical habitat by staggering the distribution of pot, jig and longline effort to avoid concentrated, large-scale removals and localized depletions inside or outside critical habitat: pots, jigs and small longliners (<60 ft) beyond 3 nmi; pots, jigs, and longline catcher vessels beyond 10 nmi; and all fixed gear (including factory longliners) and trawl vessels beyond 20 nmi.

III. THE ALEUTIAN ISLANDS SHOULD REMAIN CLOSED TO DIRECTED POLLOCK FISHING

The Aleutian Islands region pollock stock has declined steadily in the surveys since the early 1980s. The 2000 triennial trawl survey biomass estimate ranges from 20-50% of its value in the early 1980s, when systematic trawl surveys began. Results from the 2000 Aleutian Islands triennial groundfish survey indicate a 16% decline in revised AI/Unalaska-Umnak area (165W-170W long.) biomass from 158,912 mt in 1997 to 133,366 mt in 2000, and an 11% increase in revised estimates for Aleutian Islands west of 170W long. (Ianelli et al. 2000, Table 1.19). Even with the 11% increase in survey pollock biomass west of 170W long., however, the stock remains at only about 20% of its 1983 survey biomass:

Pollock biomass estimates from the Aleutian Islands Triennial Groundfish Survey, 1980-2000.

Year	Aleutian Island and Unalaska-Umnak area (165W-17W long)		Aleutian Region (170E-170W)	
	Old estimates	New estimates	Old estimates	New estimates
1980	308,745		252,013	
1983	778,666		495,982	
1986	550,517		448,138	
1991	183,303	218,783*	179,653	167,140*
1994	151,444	117,198	86,374	77,503
1997	205,766	158,912	105,600	93,512
2000	180,456	133,366	132,145	105,554

Ianelli et al., Preliminary Draft BSAI Pollock Assessment for November Plan Team meeting, Table 1.19, p.87.
 * Estimates since 1991 have been revised due to discrepancies in the strata definitions of the surveys.

Large uncertainties about the discreteness of the "stock" and its relation to the other pollock "stocks" abound. The stock assessment acknowledges that the status and dynamics of this stock are not well understood, that catch-age data is limited, and that reliable estimates of Fmsy, Bmsy, F40% or B40% do not exist for the Aleutian portion of the pollock stock. Therefore Aleutian region pollock falls into Tier 5 of the FMP overfishing definition (Amendment 56) and a fishing mortality rate is set arbitrarily at $F = .75$

of natural mortality rate (M) as a "conservatism," even though the addition of the fishing mortality nearly doubles the estimated mortality rate in the absence of fishing. Given the large uncertainties about this stock, the long-term decline in stock biomass estimates from triennial Aleutian trawl surveys, the difficulties of determining M for any stock, and the importance of pollock as a forage fish in the Aleutians, there is no good basis for continuing to fish on this stock.

In the interest of protecting the depleted pollock stock as well as pollock predators in the Aleutian Islands, the North Pacific Council did the precautionary thing and the right thing by closing the fishery in 2000. The Council action was in keeping with stock assessment Plan Team recommendations for a moratorium on directed fishing for AI pollock going back to 1996:

"...the Plan Team believes that the Aleutian pollock fishery should be managed on a bycatch-only basis for the following reasons: 1) the trawl survey time series indicates that the Aleutian pollock biomass has declined sharply and consistently since 1983, and gives no reason to expect an upturn in the foreseeable future; 2) some fish captured in the Aleutian Islands region may be part of the Aleutian Basin stock, a stock on which fishery impacts should be minimized; and 3) pollock has been shown to be an important prey item for Steller sea lions...."

Unfortunately, the NMFS 30 November 2000 Steller sea lion FMP-level Biological Opinion (p. 238) concluded that a pollock fishery closure is "inappropriate" as an experimental test of the effectiveness of the sea lion RPAs. Whether or not the closure serves as a test of the effectiveness of the RPAs, it makes sense in all other respects and is far more reasonable and prudent from the point of view of Steller sea lion and pollock conservation alike.

Furthermore, Biological Opinion RPA contains no provision to disperse an "experimental" fishery geographically across Aleutian Islands management areas in the same manner as Gulf of Alaska pollock or Aleutian Atka mackerel, and the draft PSEIS Alternative 2.1 follows this ill-conceived approach despite the clear evidence of serial depletion of this stock over the course of the past decade. Between 1990 and 1998, more than 465,000 mt were taken out of the stock in a brief, intense first quarter fishery on pollock spawning aggregations, and nearly all of it was taken from sea lion critical habitat. In the Amukta Pass region, where large pollock spawning aggregations were exploited in the early 1990s, few pollock are found today. Over the course of the 1990s, the fishery moved farther west in search of fishable aggregations as the stock abundance declined. As an important secondary prey item for Steller sea lions in the Aleutian Islands, the loss of this resource due to serial depletion in the 1990s constitutes a major adverse impact on prey availability during a period of steady decline in the Aleutian sea lion population.

In the interest of rebuilding the pollock stock biomass and ensuring adequate prey availability for pollock predators, including the endangered Steller sea lion, the Aleutian Islands pollock fishery should remain closed.

APPENDIX

Temporal and spatial dispersion of the foreign pollock fishery provides a benchmark for a slower, more dispersed fisheries outside critical habitat

NMFS's 1999 EA/RIR for final Steller sea lion RPA regulations, Section 3.1 (Foreign fishery 1982-1985) provided some useful analysis of the seasonal distribution, monthly catch totals, and daily catch rates for the eastern Bering Sea pollock fishery by way of comparing with today's temporally and spatially compressed fishery. Section 3.1 (with accompanying tables and figures) shows that the majority of the catch was taken east and west of the 170W line well outside the Steller sea lion critical habitat region, that the fishery was slower-paced, and that daily catch rates rarely exceeded 5,000 mt/day:

"Foreign fisheries caught the majority of the pollock landed from the Eastern Bering Sea in 1982-1985. Catches from the [Sea Lion Conservation Area] occurred primarily in August-November (Fig. 3-2) and never exceeded 83,000 mt during any single month (Table 3-1). During these four years, the largest January-June catches from the [Sea Lion Conservation Area] totaled only 51,000 mt (in 1983; Table 3-1). During this time, foreign trawlers were prohibited from fishing in much of the [Sea Lion Conservation Area] during winter to avoid conflicts with the crab fishery."

Furthermore, most of the catch was distributed east and west of the 170W long. line outside of sea lion critical habitat in the eastern Aleutians:

"Of the three areas considered, the [Sea Lion Conservation Area] accounted for the smallest percentage of the catch in three of the four years, ranging from 13-27%. The remaining 2 areas [i.e., east and west of the 170W line] had catch percentages ranging between 25-50% each year."

In the area west of 170W, significant catches were landed in almost every month in 1982-1985 (Figure 3-3; Table 3-1). As for daily catch rates, they were much lower and the fishery was slower paced:

"Daily pollock catches in each of the three areas for 1982 are shown in Figure 3-5. From 1982-1985, 1982 was the year with the highest percentage (27%) and total removals (255,430 mt) from the [Sea Lion Conservation Area]. Daily catches rarely exceeded 5,000 mt in any of the three areas, and were generally much lower than that in the [Sea Lion Conservation Area]."

The problem confronting management when trying to recommend a viable temporal dispersion alternative in the North Pacific groundfish fisheries is that it is very hard to allocate such large quantities of fishing quota within the constraints of a nine-month period (keeping in mind the no-fishing-fishing period between 1 Nov and 20 Jan) while simultaneously providing adequate stand-down periods between four separate seasons and still achieving lower daily catch rates.

In the case of eastern Bering Sea pollock, the Groundfish Draft PSEIS establishes a daily catch limit that is comparable to the slower-paced foreign fishery described above (i.e., not above 5,000 mt/day). Under an RPA with four equally spaced one-month seasons (25% of TAC/season) separated by four one-month stand-down periods, a million metric ton pollock fishery would have to catch

approximately 250,000 mt of quota in any one-month period. The resulting daily catch rate (assuming for the sake of argument a constant daily rate over 30 days):

$$250,000/30 = 8,333 \text{ mt/day}$$

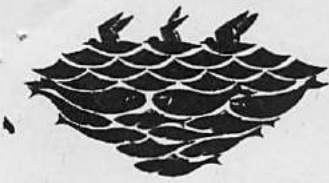
This is lower and slower than the 10,000-15,000 mt/day of the modern fishery prior to 1999, but still quite high and well above the 5,000 mt/day baseline rate of the old foreign pollock fishery. In addition, the goal of a slower-paced fishery that need not race for fish and need not fish in bad weather (i.e., promotes safety) is difficult to achieve in such a shortened time period. In fact, a one-month season with this much quota would tend to encourage a fast-paced race.

It is also possible to calculate how many days the fishery would realistically need to catch 250,000 mt (assuming a constant daily rate and fishing until the quota is taken) while still remaining at or below the 5,000 mt/day catch rate:

$$5,000 \text{ mt/day} \times 45 \text{ days} = 225,000 \text{ mt}$$

$$5,000 \text{ mt/day} \times 60 \text{ days} = 300,000 \text{ mt}$$

Whether NMFS can enforce a 5,000 mt daily catch rate in an open derby fishery is open question, but it should be very manageable under the AFA co-operatives in the Bering Sea. It is clear from the temporal/spatial distribution and rate of fishing of the foreign pollock fishery that a slower-paced and spatially dispersed fishery is readily achievable. For this reason, the Draft PSEIS establishes 5,000 mt/day as the daily catch limit for Bering Sea pollock in Alternative 2.1 (PSEIS 4.1, p. 30, Table 4.1-7).



Alaska Marine Conservation Council

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April 14, 2001

David Benton, Chair
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Re: Agenda Item C-2, Steller Sea Lions

Dear Chairman Benton,

The Alaska Marine Conservation Council (AMCC) has appreciated the opportunity to serve on the RPA Committee. As the North Pacific Fishery Management Council (NPFMC) considers the recommendations of the RPA Committee for the rest of 2001, we'd like to clarify our perspective on some issues that were raised before the Committee.

AMCC is committed to the dual goals of Steller sea lion recovery and maintaining community-based, clean fisheries at appropriate levels. Since food stress is the National Marine Fisheries Service's leading hypothesis regarding what is impeding the recovery of Steller sea lions, our recommendations spring from the need to adjust fisheries for temporal and spatial dispersion.

Why AMCC Signed on to the RPA Committee Recommendations

As you know, the recommendations from the RPA committee at this time are limited to the remainder of 2001, and as per the emergency rule and statute, 2001 is a phase-in year for Steller sea lion recovery measures. In the spirit of working with the committee and not bogging down the process of developing short-term recommendations, AMCC agreed to support the recommendation that critical habitat be limited to 10 nautical miles from most rookeries and haulouts instead of the 20 nautical mile limit recommended in the November 30, 2000 Biological Opinion. We are concerned about the basis for changing the boundaries for RPA consideration, and we look forward to further discussion of Steller sea lion critical habitat needs when the 2002 RPAs are being designed.

AMCC presented an alternative approach to modifying the fisheries for Steller sea lion conservation, termed the "zonal approach." AMCC agreed to table the zonal approach proposal for now because of the short time frame available to NMFS to issue an emergency rule for the second half of 2001. In addition, the RPA Committee Chair made it clear that the 2001 RPA would not be precedent setting for 2002 and beyond. The committee agreed to discuss the zonal approach further at future RPA Committee meetings.

Concerns about Telemetry Data

The RPA committee received a presentation from Bob Small of Alaska Department of Fish & Game about state and federal satellite telemetry data. He clearly explained several important caveats regarding the accuracy of assumptions made about Steller sea lion activity. These are excerpted here from the RPA Committee meeting minutes of March 26-29:

There are several important caveats to consider with these telemetry location data: (1) due to a larger proportion of time spent at the surface nearshore, the probability of obtaining at-sea locations near haulouts and rookeries is likely higher than when further offshore when sea lions are diving to depth in deeper waters; (2) at-sea locations do not directly indicate where sea lions are foraging; (3) the large majority of pups, and perhaps most juveniles, were likely still nursing and thus not foraging independently for prey; and (4) telemetry data are lacking for subadults and females without pups.

The RPA Committee placed strong emphasis on this data as the rationale for scaling back on critical habitat for 2001. It is unfortunate that time limitations prevented the data from being available in advance of the meeting to help committee members more fully absorb the information before making a decision.

AMCC concurs with the RPA Committee that the designation of critical habitat should be re-examined in the future as new information becomes available and as current information is synthesized. We look forward to reviewing the white paper on telemetry data that the Scientific and Statistical Committee has requested. We understand from the scientists that no available data provides concrete information regarding foraging behavior. Some discussion on how to make use of all datasets would be helpful since no one dataset tells the whole story.

Loosening of Restrictions on Steller Sea Lion Conservation Area (SCA)

At Monday's emergency meeting of the RPA Committee, NMFS raised the possibility that the Committee's action to remove the fishing restrictions in the SCA beyond 10 nautical miles could trigger the need for an informal or formal consultation to determine whether the recommendations keep the Steller sea lion out of jeopardy. The fishing restrictions in the current emergency rule (reduced catch level, season split) were designed to accomplish temporal and spatial dispersion of fishing activity. It is unclear what time delay or administrative staff burden could be imposed upon NMFS, and subsequently, what that might mean to timely prosecution of the fisheries. The possibility of a consultation is an issue the NPFMC should carefully weigh.

Zonal Approach – A Proposal For 2002 and Beyond

The purposes of the zonal approach are to 1) achieve Steller sea lion conservation in the cod fishery, 2) monitor fishing impacts on the prey field, and 3) modify fishing activity in a way that accommodates Alaska's coastal communities, and lower impact fishing gears and practices.

The "zonal approach" disperses catch in critical habitat by staggering effort to avoid concentrated, large scale removals that could result in localized depletions inside or outside critical habitat according to principles established by the agency.

AMCC also recommends dispersing the TAC temporally throughout the year. This would avoid the intense concentration of the catch in the fall/winter season and slow down the fisheries during any season, thereby further reducing the likelihood that catches in critical habitat by any gear type will cause localized depletions or undue disturbance of the prey field for sea lions.

AMCC looks forward to reviewing a gear specific impact analysis that may help inform the design of the zonal approach. In addition, we welcome input and ideas to improve the zonal approach.

Vessel Monitoring System

We understand that a delay in the analysis for the vessel monitoring system (VMS) program is being considered. AMCC urges the NPFMC to keep this analysis on track so the program could be in place in time for the 2002 RPA.

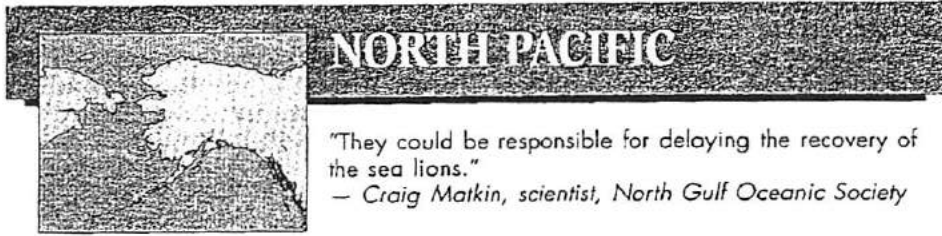
Sincerely,

A handwritten signature in black ink, appearing to read "Dorothy Childers", with a long horizontal flourish extending to the right.

Dorothy Childers
Executive Director

AROUND THE COASTS

News for the nation's fishermen



"They could be responsible for delaying the recovery of the sea lions."
 — Craig Matkin, scientist, North Gulf Oceanic Society

Tags from 15 Steller pups discovered in killer whale

Researcher says transient pod of orcas may depend on Stellers for a quarter of their diet

Theories about the declining Steller sea lions abound after an independent study of killer whales in Prince William Sound turned up a dead whale with 15 tags belonging to Steller pups.

The carcass that contained the Steller tags was discovered in 1992, but news of the tags being found didn't come to light until recently. The discovery opens a new angle in the relationship between killer whales and the declining Stellers.

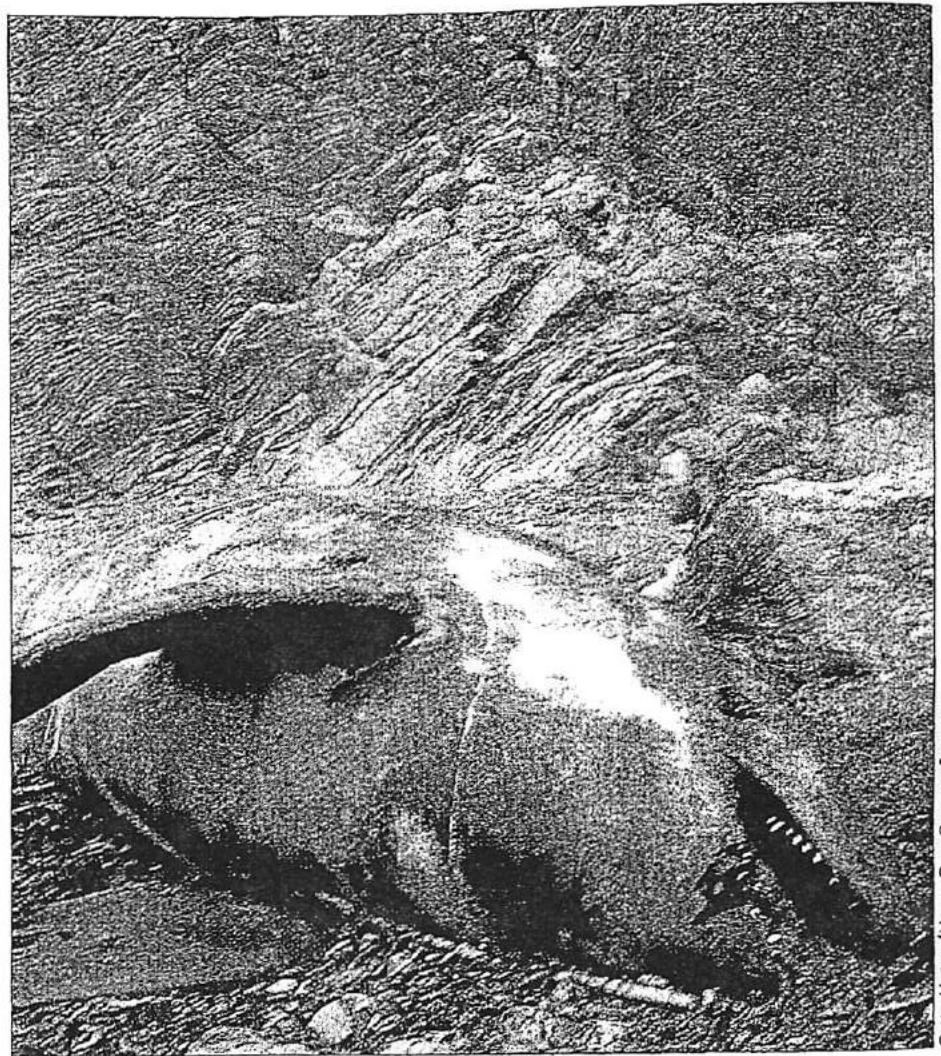
Did whales decimate the western population of Stellers? "It's very unlikely that these animals are what's taken the population of sea lions down," says Craig Matkin, a research scientist with North Gulf Oceanic Society of Homer, Alaska. "But they could be responsible for delaying the recovery of the sea lions." Matkin has been studying orcas for 15 years and recently released a paper that contains clues to their

predatory effects on the lions.

Matkin found, for instance, two distinct populations: a resident pod of fish-eating whales and a transient, carnivorous population of about 150 animals that frequents the Gulf of Alaska. "It's hard for fishermen to believe, but the killer whales eating fish off the longliners' hooks and near the trawls aren't the ones eating the sea lions."

Matkin says that the transient pod may depend on sea lions for up to a quarter of its fodder, and that there has been no intermingling of the pods.

In March, Matkin worked on proposals to study the genetics and interrelationship between the whales and sea lions west of Kodiak Island and the Aleutian Islands. Alaska Sen. Ted Stevens has obtained \$43 million in Congressional funds for research into why Stellers are disappearing.
 — Charlie Ess



IN THE BELLY OF THIS BEAST were found tags from 15 Steller sea lion pups. Environmental advocates blame the pollock fishery for declining sea lion numbers.

tion to come to Alaska and experience salmon fishing firsthand.

Lt. Gov. Fran Ulmer, a member of the Governor's Salmon Cabinet, expressed good will in the clearing up of the grain-monger's gaffe by sending Morrison a salmon cookbook.
 — C.E.

Fish board refuses to cut salmon hatchery output

Harvesters in western Alaska displeased

gered for years.

Chum harvesters in western Alaska, which has no hatcheries, believe the state-financed hatcheries have enriched some regions while hurting another. They argue that demand has dried up for western chums, and that recent poor chum returns to western rivers might be due to ocean feeding competition from hatchery fish.

The board decision seemed to repudiate the position of Gov. Tony Knowles, who had declared salmon dis... in impoverished western Alaska and... had asked the board to, among other, measures,

CRAIG MATKIN/NORTH GULF OCEANIC SOCIETY

Steller Sea Lions and the Bering Sea/Aleutian Islands Pacific Cod Longline Fishery

There exists a great deal of uncertainty in the relationship between commercial fishing and the decline of the western population of the Steller sea lion (SSL). At this time, instead of focusing on what we do not know, focus should be placed on what we do know about each fishery. The slower and more dispersed nature of the longline fisheries makes localized depletion an unlikely scenario inside or outside of Critical Habitat. This fishery primarily occurs outside of Critical Habitat. Given the length of season and broad catch dispersion of this longline fishery, it would be reasonable to assume that this fishery would not be expected to reduce the appreciable likelihood of survival and recovery of the SSL for 2001 and beyond.

- The BSAI Pacific cod stock is healthy and not overfished. The 2000 biomass is estimated to be **1.3 million** metric tons. The 2000 Total Allowable Catch (TAC) for all gear (trawl, longline, pot and jig) was **14.9%** of the total biomass.
- The TAC is split between jig (2%), trawl (47%) and fixed gear (pot and longline, 51%). The fixed gear TAC is now further split between longline (80%) and pot (20%) with additional small vessel allocations. The 2000 longline TAC was **6%** of the total biomass. In the fall, uncaught trawl and jig quota is "rolled over" into the fixed gear TAC and is predominately caught by longline.
- The longline harvest is almost entirely conducted by freezer-longliner vessels who produce high quality frozen-at-sea fish products. The quality of p-cod significantly diminishes unless immediately processed. The freezer-longline harvest is a small and consistent portion of groundfish harvest in the BSAI [Figure 1].
- The number of freezer-longline vessels participating in the fishery is historically stable and limited to less than 40 vessels. By regulation, the fleet size is not expanding. Participation in the fishery is restricted by the NPFMC under the License Limitation Program (LLP) with species/gear endorsements (Amendment 67).

- The harvest area is broadly distributed in the Eastern Bering Sea and the Aleutian Chain [Figure 2]. The majority of harvest (82%) occurs outside of Critical Habitat (20 miles) around rookeries and haulouts while 76% of the harvest occurs outside of all Critical Habitat areas (20 miles plus foraging areas). [Figure 3].
- The fishery is largely conducted in the first trimester (January through April) and third trimester (September through December) when cod are aggregated. The fishery does not generally occur in the second trimester (May through August) when Pacific cod disperse into the shallower waters of the eastern Bering Sea. When cod are less aggregated, the catch per unit of effort (CPUE) and the efficiency of the fleet decreases. The quality of cod as a seafood product also decreases in summer months. Incidental bycatch of halibut (a prohibited species) increases considerably in the summer months. For these reasons, there is little effort in the second trimester although some limited harvest occurs.
- The estimated amount of halibut mortality in the longline fishery in 1999 was 0.6% of the longline groundfish total catch. The rate was lowest in the first trimester (0.3%) and highest in the second trimester (1.25%).
- The primary longline harvest season for Pacific cod is the first trimester and the fall. [Figure 4]. The harvest is evenly distributed without peaks over a six month time period (January through April, September & October). Total catch by week is steady and consistent during this period. Considerably smaller harvests also occur in November and December.
- In 1999, the maximum weekly catch of Pacific cod by gear type was: trawl = 7,134 mt/week; longline = 4,547 mt/week; and pot = 2,833 mt/week [Figure 5].
- The average length of a Pacific cod caught in the longline fishery is 67 cm (1997-98 avg.) [Figure 6]. From scat analysis, 80% of the Pacific cod eaten by Steller sea lions were approximately 50 cm in length [Figure 7].
- 94% of the Pacific cod longline catch comes from vessels with observers aboard. 66% of the Pacific cod longline catch is directly monitored by the observers [Figure 8].

BSAI GROUNDFISH CATCH 1995-99
By Gear in Metric Tons



FIGURE 1

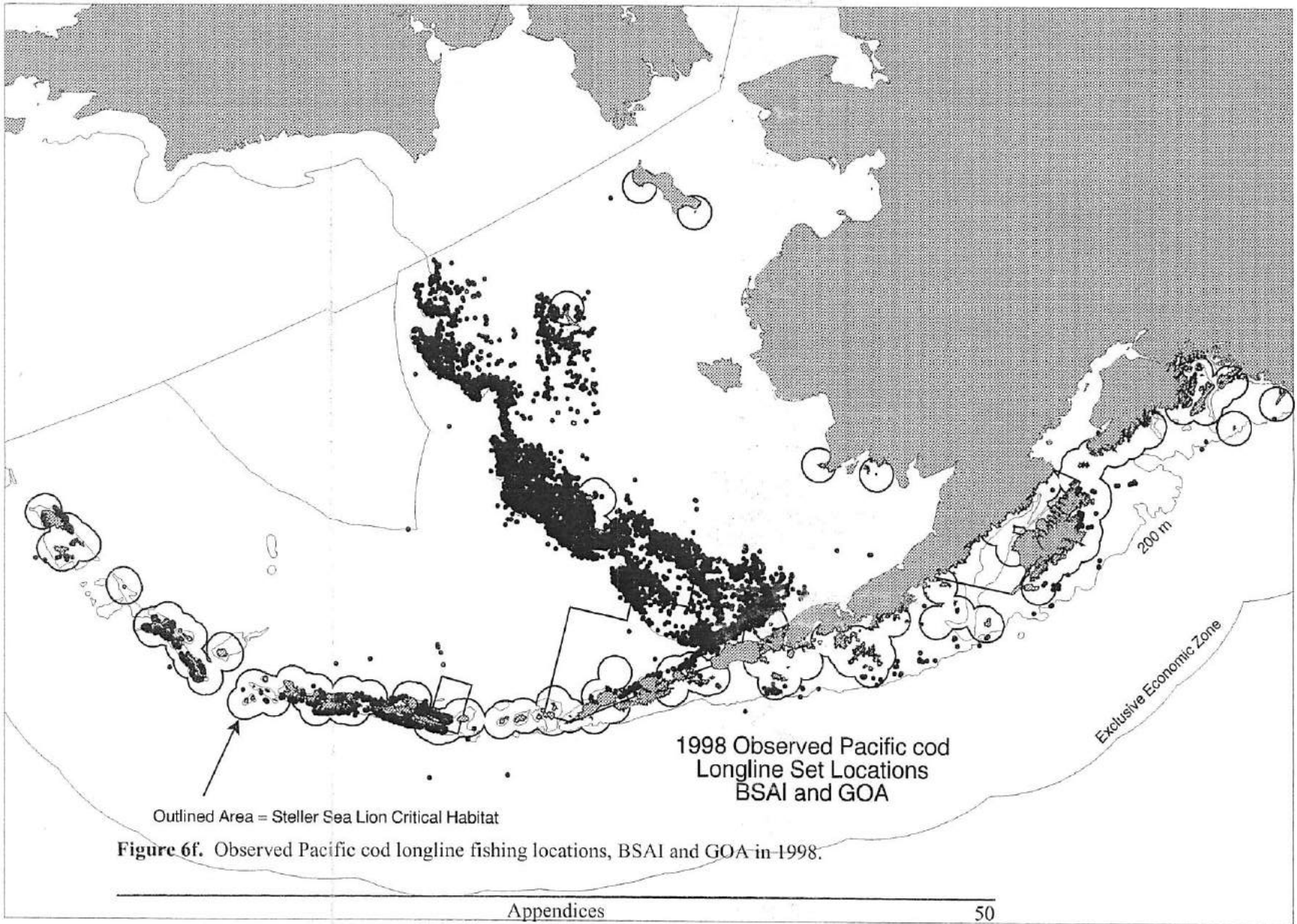


FIGURE 2.

Table 1a. BSAI Pacific cod catch percentages inside and outside of critical habitat by gear type and season from 1996-2000. The "total" column represents the sum of all gear types. Each gear type is the percentage of the catch only for that gear type by season or year. Winter refers to January-April, summer from May-August, fall from September-December.

Season/year	BSAI PERCENT INSIDE CH				BSAI PERCENT OUTSIDE CH			
	HAL	POT	TWL	TOTAL	HAL	POT	TWL	TOTAL
JAN-APR	23%	83%	76%	59%	77%	17%	24%	41%
MAY-AUG	25%	73%	41%	59%	75%	27%	59%	41%
SEP-DEC	24%	77%	93%	37%	76%	23%	7%	63%
1996	23%	78%	76%	56%	77%	22%	24%	44%
JAN-APR	27%	90%	83%	63%	73%	10%	17%	37%
MAY-AUG	36%	89%	20%	52%	64%	11%	80%	48%
SEP-DEC	18%	50%	43%	21%	82%	50%	57%	79%
1997	24%	82%	81%	54%	76%	18%	19%	46%
JAN-APR	31%	100%	83%	62%	69%	0%	17%	38%
MAY-AUG	45%	63%	56%	56%	55%	37%	44%	44%
SEP-DEC	30%	46%	73%	35%	70%	54%	27%	65%
1998	32%	77%	82%	56%	68%	23%	18%	44%
JAN-APR	29%	99%	87%	63%	71%	1%	13%	37%
MAY-AUG	21%	77%	41%	52%	79%	23%	59%	48%
SEP-DEC	16%	84%	66%	24%	84%	16%	34%	76%
1999	24%	84%	86%	56%	76%	16%	14%	44%
Jan-May 6	44%	92%	79%	68%	56%	8%	21%	32%
2000								

Table 6.3. Portion of the catch of BSAI and GOA groundfish in Steller sea lion critical habitat by gear type (average from 1995-1999).

Catch of groundfish in Steller sea lion critical habitat				
Area	All gear	Trawl	Pot	Hook-and-line
BSAI inside critical habitat around rookeries and haulouts only	14%	13%	63%	18%
BSAI inside critical habitat around rookeries and haulouts plus special foraging areas	49%	50%	81%	27%
GOA inside critical habitat around rookeries and haulouts only	48%	51%	60%	25%
GOA inside critical habitat around rookeries and haulouts plus special foraging areas	54%	58%	71%	25%

1999 BSAI P-COD H&L CATCH

By Week in Metric Tons

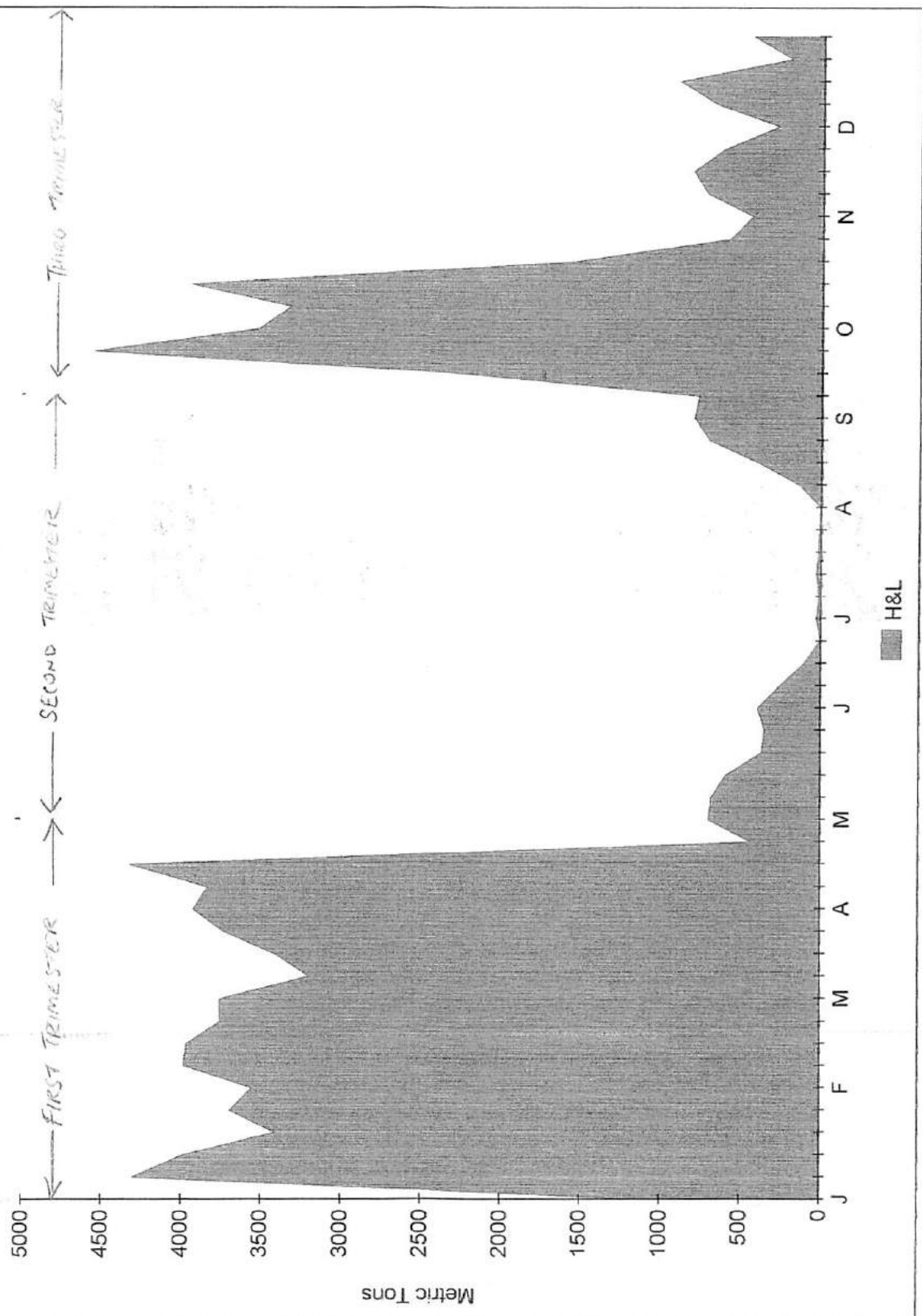


FIGURE 4

1999 BSAI P-COD CATCH

By Week by Gear Type

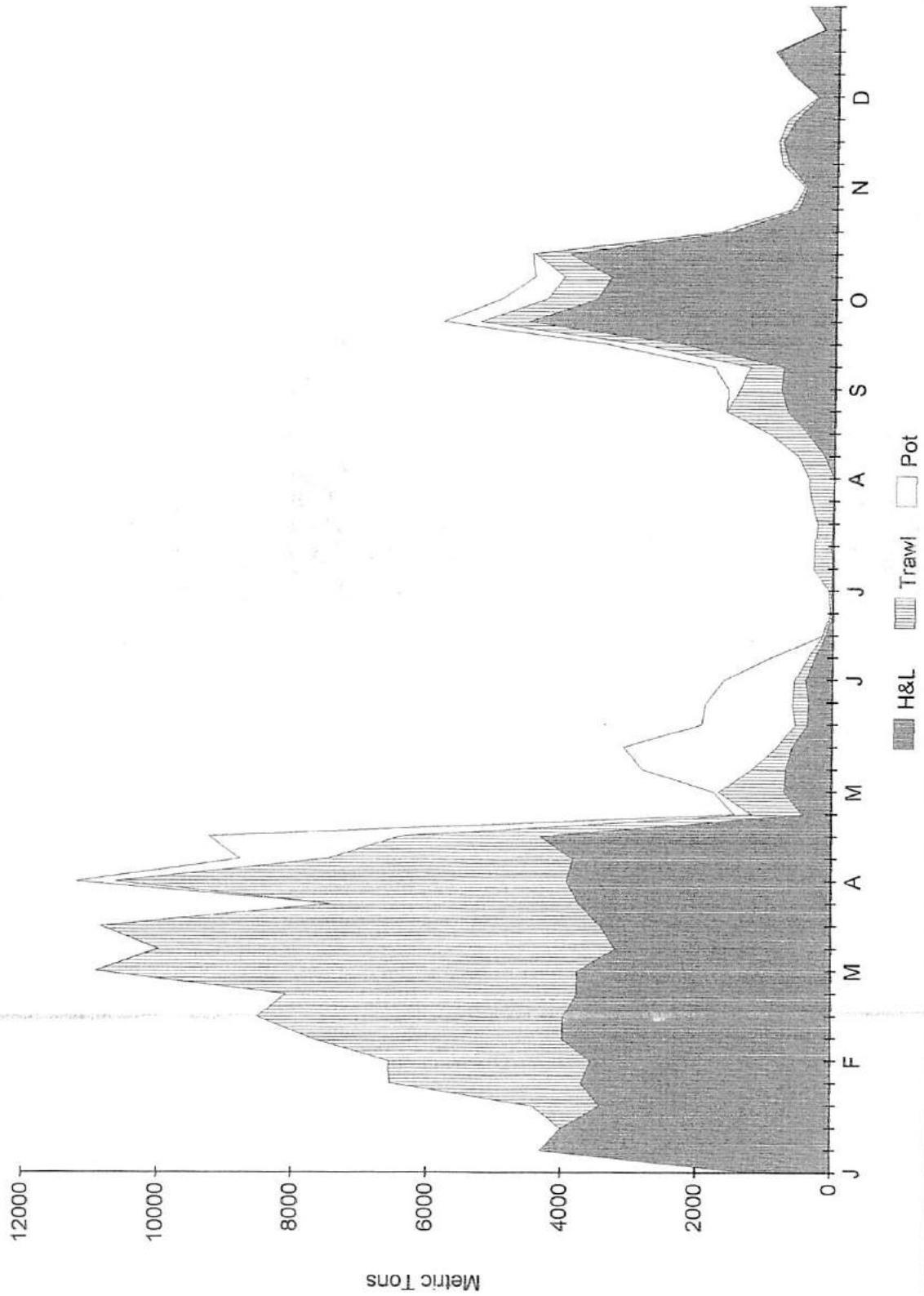


FIGURE 5

Size of Pacific Cod Harvested by the Fishery

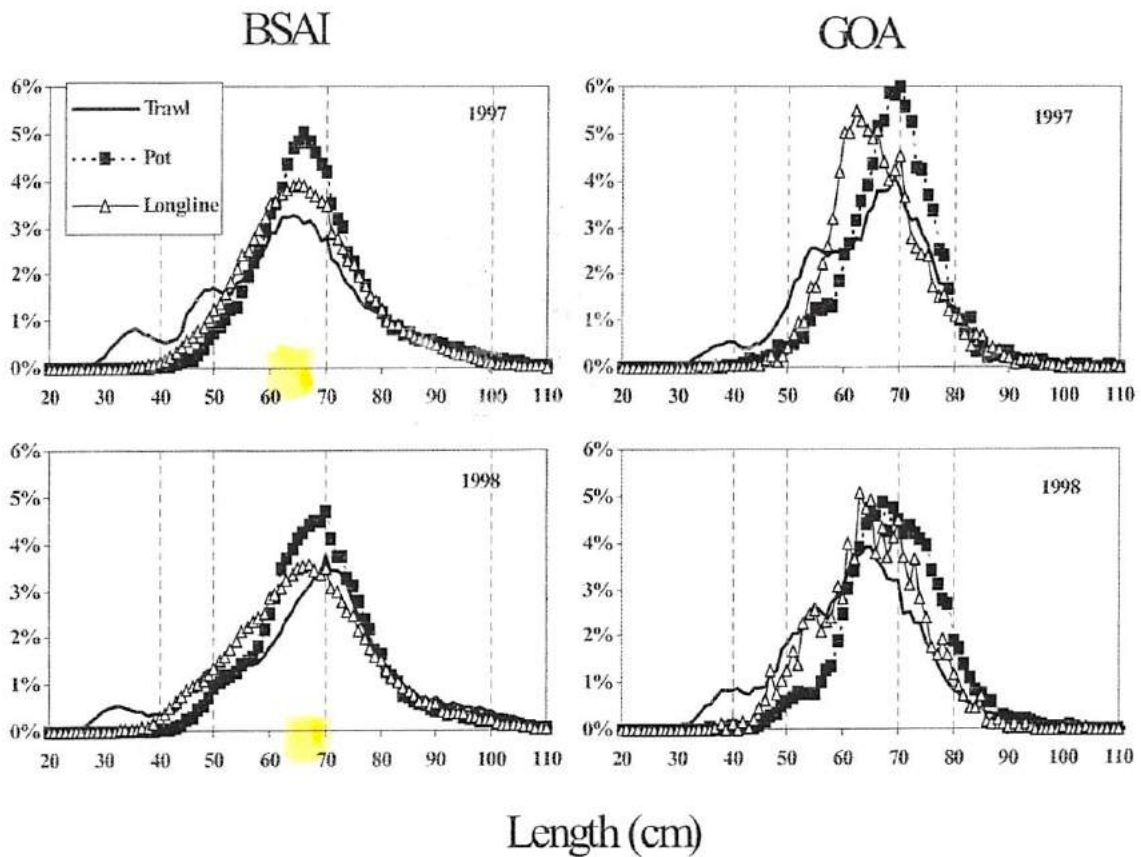
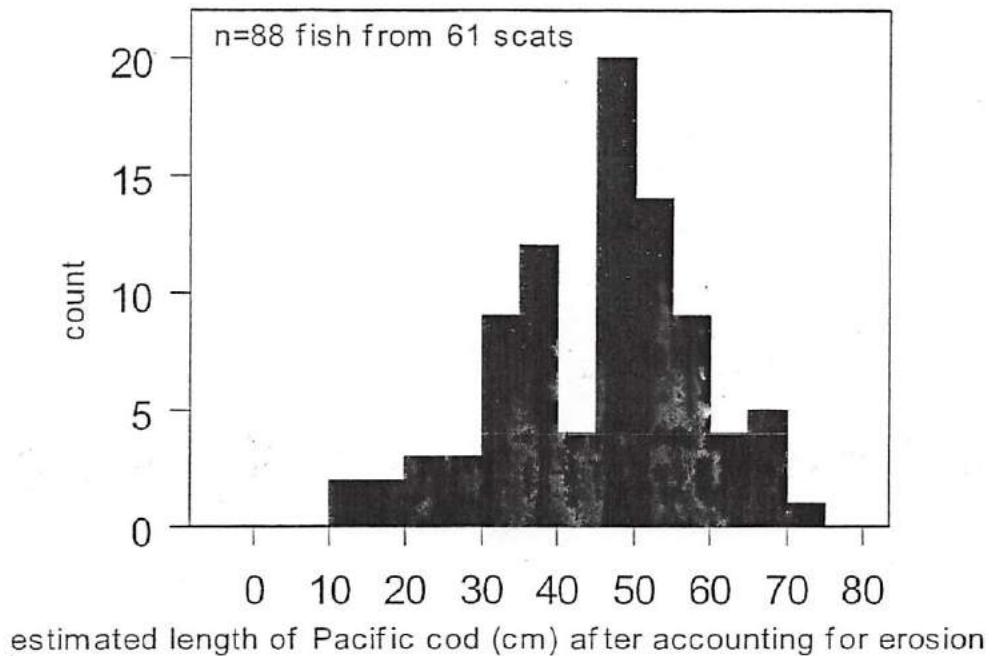


Figure 11. Size distributions of cod taken in the BSAI and GOA in 1997 (top) and 1998 (bottom) by gear type.

Figure 31. Size distribution of Pacific cod in Steller sea lion scat using cranial and post-cranial bones (1994-1998).

Length of Pacific cod estimated from the measure of bones from Steller sea lion scats collected 1994-1998 (January-March)



In previous analyses to determine the size of Pacific cod eaten by Steller sea lions, researchers used gill rakers to approximate size into subjective size categories as described above (see June 6 Pacific cod discussion paper). In that analysis, approximately 80% of the Pacific cod remains recovered from Steller sea lion scat during summer and winter months were from “very large” fish up to 80 cm in total length. This category was too broad to determine the degree of size overlap with the fishery. In response to this challenge, NMFS biologists made direct measurements of five selected bones (see above description of cranial and post-cranial bones) occurring in scat samples containing “very large” Pacific cod. This yielded a total length range of 30-75 cm with a mean of 50 cm once erosion is taken into account (Figure 31). Therefore, on average, 80% of the Pacific cod eaten by Steller sea lions were approximately 50 cm in length.

Table 6.4. Amounts of groundfish harvested on observed vessels and in hauls sampled by observers compared with amounts estimated using the "blend" catch estimation procedure. Recall from chapter 2 that the "blend" approach consists of a set of rules for determining whether total catch is estimated from observer data or from the fishing vessel records. HAL = hook-and-line gear, POT = pot gear, TRW = trawl gear.

FMP	Gear	Target	Blend estimate (mt) ¹	Catch on observed vessels (mt) ²	Catch on observed vessels / blend estimate of total ³	Catch in hauls observed (mt) ⁴	Catch in hauls observed / blend estimate of total ⁵
BSAI							
	HAL	Pac. Cod	144,912	135,694	94%	95,827	66%
	HAL	Sablefish	2,549	1,041	41%	473	19%
	HAL	Turbot	4,909	5,387	110%*	2,703	55%
	POT	Pac. Cod	22,639	7,359	33%	5,511	24%
	TRW	Atka Mack.	72,379	73,385	101%*	51,599	71%
	TRW	Pac. Cod	137,930	126,581	92%	89,175	65%
	TRW	O. Flats	3,938	4,199	107%*	2,406	61%
	TRW	Rockfish	12,283	11,989	98%	9,023	73%
	TRW	Flathead	19,671	14,182	72%	8,010	41%
	TRW	Pollock	1,008,898	876,911	87%	634,683	63%
	TRW	Rock Sole	57,928	59,342	102%*	31,742	55%
	TRW	Yellowfin	248,865	237,625	95%	145,362	58%
		Totals	1,736,901	1,553,695	89%	1,076,514	62%
GOA							
	HAL	Pac. Cod	11,511	1,667	14%	984	9%
	HAL	Rockfish	526	19	4%	15	3%
	HAL	Sablefish	14,963	3,139	21%	1,244	8%
	POT	Pac. Cod	9,419	355	4%	257	3%
	TRW	Pac. Cod	53,128	11,020	21%	8,844	17%
	TRW	Deep Flat	7,157	3,225	45%	1,540	22%
	TRW	Shallow Flat	10,068	2,523	25%	1,706	17%
	TRW	Rockfish	20,051	16,369	82%	9,599	48%
	TRW	Flathead	4,137	1,980	48%	1,065	26%
	TRW	Other Spp.	857	61	7%	47	5%
	TRW	Pollock	87,999	31,295	36%	27,829	32%
	TRW	Rex Sole	8,574	5,493	64%	2,956	34%
		Totals	228,390	77,146	34%	56,086	26%

¹ Groundfish metric tons from the blend database.

² Groundfish metric tons from observer official total catch -- all hauls/sets while the observer is onboard, includes observer transcription of skipper estimates for hauls not independently estimated by the observer.

³ Percent of observer official total catch compared to blend total catch estimate. This indicates the proportion of groundfish harvested on observed vessels.

⁴ Groundfish metric tons from hauls actually sampled by the observer. On trawl vessels, a single observer can typically sample 40-60 percent of the hauls. These are the weights of the haul/set from which a sample was taken, not the weight of the sample.

⁵ Percentage of weight of sampled hauls compared to the blend total catch estimate.

* Indicates that the catch estimate from the observer exceeded the catch estimated using the blend approach.

SSL RPA Committee Harvest Restrictions

4/15/01

Good ~~morning~~^{afternoon} Mr. Chairman. My name is Ed Richardson, I'm a fisheries economist, and I'm here today representing the Pollock Conservation Cooperative. It's my intent today to present some industry perspective on the harvest restrictions developed and proposed by the Council's RPA Committee for the second half of 2001. In addition, I'll try to provide for the Council a brief analysis of the forage needs of a healthy stock of Steller sea lions. This material is intended to provide some additional detail and rationale to back up some of the testimony that you have heard from Larry Cotter, the chairman of the RPA committee.

Mr. Chairman, from the fishing industry's perspective, the harvest restrictions developed by the RPA committee modify the regulations put forward by the NMFS BiOp 2000 in small but significant ways, such that both the Steller sea lion and the commercial fishing industry are very likely to gain. In economics, such movements are called pareto optimal, in that they provide a situation with the potential to make all parties better off. Among the business community, such movements and adjustments are simply called WIN-WIN.

Perhaps the best way to characterize the harvest restrictions proposed by the RPA committee is that:

1) they increase protection for Steller sea lion critical habitat in near-shore areas and relax protection slightly in offshore areas;

and

2) in the main, the RPA committee restrictions boost protection in those areas where sea lion population declines remain relatively high.

Why is it important to increase protection for sea lion critical habitat in near-shore areas? Well, the rationale here is simply that near-shore areas, especially those areas within 10 nautical miles of land, are where recent NMFS and ADF&G analyses of telemetry

data indicate that sea lions spend most of their time, both feeding and breeding.

And why is it important to boost protection of habitat in those areas where sea lion numbers are declining the fastest? Well the answer here is that, if, and I stress here if, there is any connection between the commercial fisheries and the sea lion decline, then its in these areas where protection measures should provide the biggest bang for each buck sacrificed.

One way to appreciate the nature of the RPA committee proposal is to compare, area by area, the ten-year trend in sea lion population changes with the changes in sea lion protection offered by the RPA committee proposal as compared to those contained in the NMFS BiOp 2000 emergency rule.

SLIDE #1

To facilitate this comparison, I've grouped the RPA areas according to ecosystem and bathymetric characteristics. In essence, this grouping moves Areas 9 and 10, on the south-side of Unalaska, from the Gulf to the Aleutian Islands. But what emerges is a distinct pattern of sea lion population changes, and this allows one to more easily appreciate the nature of the RPA changes proposed by the Council's committee.

We can see that sea lion populations are declining in the Aleutian Islands and the Gulf of Alaska, with the highest declines to the far west in the Aleutians and the far east in the Gulf. In the Bering Sea, and in particular those areas contiguous with the shelf ecosystem, sea lion numbers are increasing. Now checking on the adjustments to sea lion critical habitat areas proposed by the RPA committee, we can see that, in the Gulf, which is an area of sea lion decline, the RPA committee harvest restrictions provide equal or better levels of protection for sea lion critical habitat areas. The single exception here is the small Area 6, where SSL numbers are close to stable

Similarly, in the Aleutians, and with the single exception of the Atka mackerel fishery in Area 13, the RPA committee alternative also provides equal or better protection of sea lion critical areas. In the Bering Sea, where in Areas 7 and 8, and again these are the shelf-ecosystem areas, sea lion numbers are trending upward at rates that approximate those one would expect to observe from a healthy stock, critical habitat protection is equal or better in two of three areas. Only in Area 8, where the ten-year trend in numbers indicates an increase of 7% annually, is protection reduced, but here again, only in OFFSHORE areas which the telemetry data tells us are not used intensively by Steller sea lions.

Now in the next slide, we can see the same information, but displayed in a more quantitative fashion. That is to say, we are measuring the extent of the critical habitat areas protected, and then adding them up to account for the differences in the sizes of the areas as well as for the fact that, in Aleutians Areas 12 and 13, the RPA committee proposal contains harvest restrictions that are different by fishery.

Here we see that in the Gulf, the RPA committee proposal increases critical habitat protection by about 25%. In the Bering Sea, protection overall is relaxed by about 35% in area terms, but again those areas where protection is relaxed are largely offshore areas, in particular the southeastern Bering Sea foraging area, which extends from 10 nautical miles out to about 65 nautical miles. Finally, in the North and South Aleutian Islands, and looking by species, protection of critical habitat from pollock fishing is increased by 50%, protection from cod fishing is held unchanged, and protection from Atka mackerel fishing is reduced by 30%.

Final comment - what did the RPA committee start with. One size fits all fisheries developed without a lot of public input.

Now I'd like to take a few additional minutes to provide some details on an analysis of healthy SSL forage needs, and in particular, to analyze whether the harvest restrictions proposed by the RPA committee for Areas 7 and 8 could be expected to leave sufficient forage in the water such that the SSLs in these areas would very likely remain as healthy as they are today.

<u>Gulf of Alaska</u>	SSL Population Trend (%)	SSL CH Protection
Area 1 — Prince William Sound	-10	↑
Area 2 — North Gulf Coast	-7	No Change
Area 3 — Kodiak Island	-4	↑
Area 4 — Chignik	-6	No Change
Area 5 — Sand Point	-1	↑
Area 6 — King Cove	-1	↓

Bering Sea

Area 7 — Unimak	+3	↑
Area 8 — Dutch Harbor and Northern Bering Sea	+7	↓
Area 9 — Bogoslof	-2	No Change

Aleutian Islands North and South

Area 10 — Gulf Side of Unalaska	-4	No Change
Area 11 — Gulf Side of Unalaska	-3	No Change
Area 12 — Eastern AI	-2	↑ NC ↑
Area 13 — Cent. and Western AI	-7	↑ NC ↓

Source: NMFS BiOp 2000, Table 9.7 (trends for 1991-2000).

P C A

	SSL CH Closed (%)	
	NMFS BiOp 2000	NPFMC RPA Committee
<u>Gulf of Alaska</u>	47	59
<u>Bering Sea</u>	82	54
<u>AI North and South</u>		
Pollock	67	100
Pacific Cod	67	67
Atka Mackerel	67	47

Source: RPA Committee.

Areas 7 and 8 — SSL Numbers in 2000

	Estimated Minimum Population	Estimated Actual * Population
Non-pups	1,828	2,011 - 2,376
Pups	190	209 - 247
	<hr style="width: 100%; border: 0.5px solid black;"/>	<hr style="width: 100%; border: 0.5px solid black;"/>
	2,018	2,220 - 2,623

Source: NMFS BiOp 2000, Table 9.5; RPA Committee.

* Observed counts are inflated by 10-30% to account for unobserved SSLs.

Areas 7 and 8 — SSL Forage Needs Estimates (mt)

Perez and McAlister 1993 4.4 mt per year	Winship 2000 9.3 mt per year
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Non-pups	8,842 - 10,447	18,638 - 22,020
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Pups	919 - 1,086	1,937 - 2,289
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	9,761 - 11,533	20,575 - 24,309

Source: NMFS BiOp 2000, Appendix 3.

Healthy SSL Forage Availability

Historical Abundance of SSLs
Prior to the Groundfish Fisheries

184,000

Equilibrium Unfished Biomass
for 17 Groundfish Stocks

37.6 million mt

Estimate of Forage
Consumed

Ratio of Total Forage Available
to Forage Consumed

Perez and McAlister 1993

0.810 million mt

46

Winship 2000

1.71 million mt

22

Source: NMFS BiOp 2000, Appendix 3.

Areas 7 and 8 — Healthy SSL Forage Availability

If annual SSL forage consumption is:

4.4 mt per year

9.3 mt per year

then for a healthy population of SSLs, the ratio of total forage available to forage consumed is:

46

22

Multiplying the annual forage needs shown previously by the above ratios provides estimates of the total available forage necessary for a healthy population of 2,220 - 2,623 SSLs in Areas 7 and 8:

449,006 - 530,520 mt

452,650 - 534,798 mt

Source: NMFS BiOp 2000, Appendix 3.

Areas 7 and 8 — Healthy SSL Forage Availability

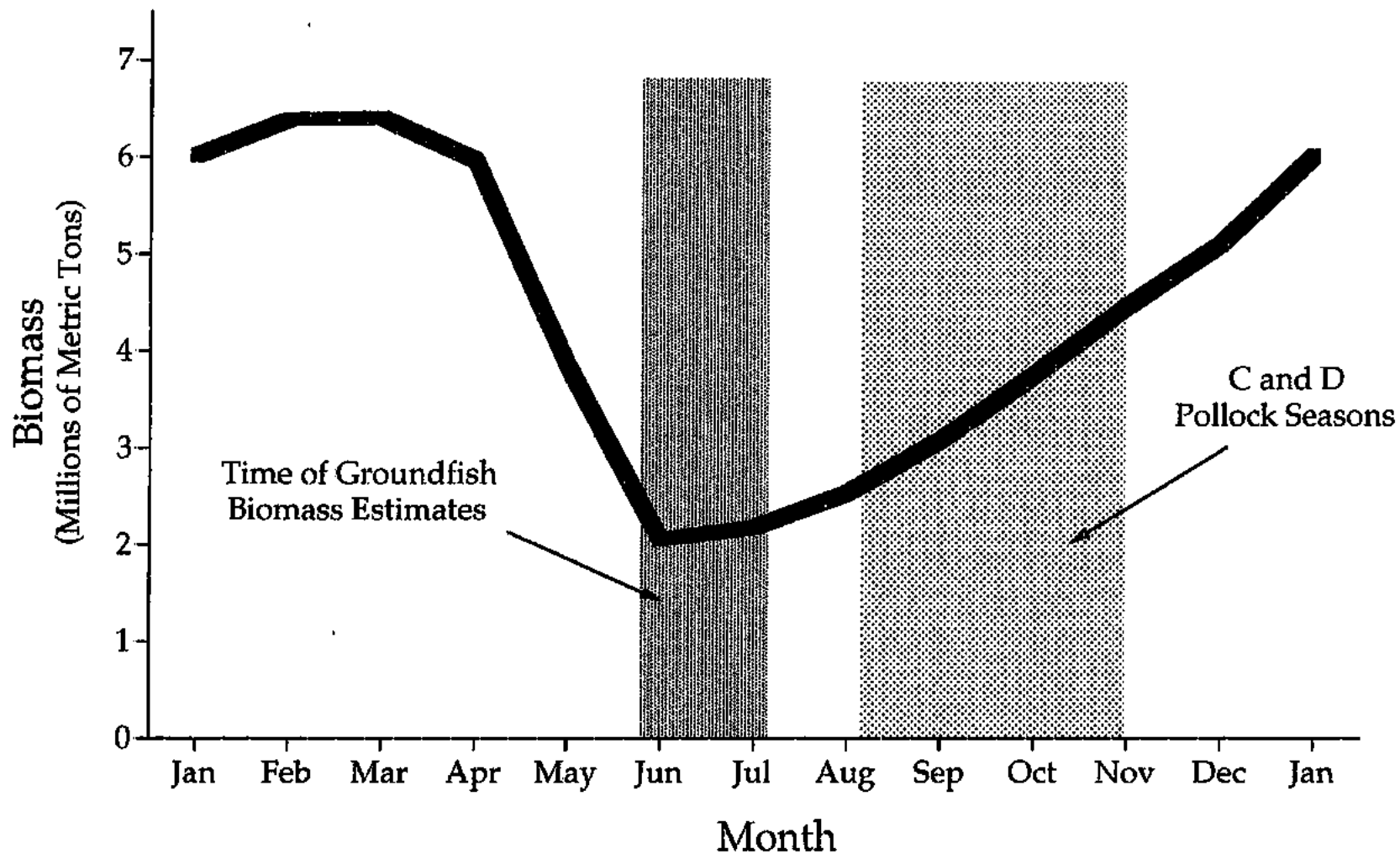
Is Pollock Biomass Alone Sufficient?

Pollock Biomass	10,060,000 mt
Biomass Inside SCA	1,247,440 mt
Areas 7 and 8 Healthy SSL Total Forage Estimate	449,006 - 534,798 mt
Expected Fishery Removals 2001 C+D Seasons *	433,440 - 517,440 mt
Surplus Forage	195,202 - 364,994 mt

Source: RPA Committee, NMFS 2001 Harvest Specifications.

* Expected fishery removals with and without CDQ harvest.

Summary of Biomass Estimates Pollock, Pacific Cod and Atka Mackerel in Critical Habitat



Source: NMFS BiOp 2000, Table 2, Appendix 3.

Areas 7 and 8 — Healthy SSL Forage Availability

Should the Council believe this analysis?

Is the estimate of healthy SSL forage needs conservative?

- 2000 pups included because by 2001 C+D seasons they will be non-pups, but no correction made for mortality among non-pups;
- Fraction of pollock biomass inside Areas 7 and 8 estimated for June, but BiOp 2000 analysis indicates that CH biomass of pollock, cod, and Atka mackerel will be higher during the fall;
- Healthy SSL forage availability is calculated for an entire year and not just for one-half of a year;
- Expansion factors for healthy SSL forage availability based on 17 groundfish stocks, yet the calculation of surplus forage considers only the biomass of pollock likely available in Areas 7 and 8.

DATA USED IN FIS MAPS FOR YEAR 2000 (COD MT)

WK	W.E.D.	BLEND	FIS OBS	month	FIS OBS	WK	W.E.D.	BLEND	FIS OBS
ni	01-Jan-2000	584	180	APRIL	3180 *	36	09-Sep-2000	3662	1856
1	08-Jan-2000	4457	1806			37	16-Sep-2000	3698	1908
2	15-Jan-2000	5073	2148	MAY	1205 +	38	23-Sep-2000	2972	1292
3	22-Jan-2000	4352	1496			39	30-Sep-2000	3009	1443
4	29-Jan-2000	4128	1897	JUNE	167 *	40	07-Oct-2000	3163	1334
5	05-Feb-2000	3620	1372			41	14-Oct-2000	3099	1303
6	12-Feb-2000	3565	1654	JULY	465 *	42	21-Oct-2000	2664	1254
7	19-Feb-2000	4136	1934			43	28-Oct-2000	2542	1252
8	26-Feb-2000	3723	2075	AUGUST	2191 *	44	04-Nov-2000	2679	1303
9	04-Mar-2000	3214	1882			45	11-Nov-2000	2892	1645
10	11-Mar-2000	4047	1583			46	18-Nov-2000	3123	1205
11	18-Mar-2000		1319 *			47	25-Nov-2000	3237	1320
12	25-Mar-2000		1706 *			48	02-Dec-2000	2505	1686
13	01-Apr-2000		1667 *	DECEMBER	2,997 *				

FIS OBS = 28 VESSELS WHICH PERMITTED USE OF DATA

* CDQ CATCH

+TURBOT BYCATCH AND CDQ CATCH

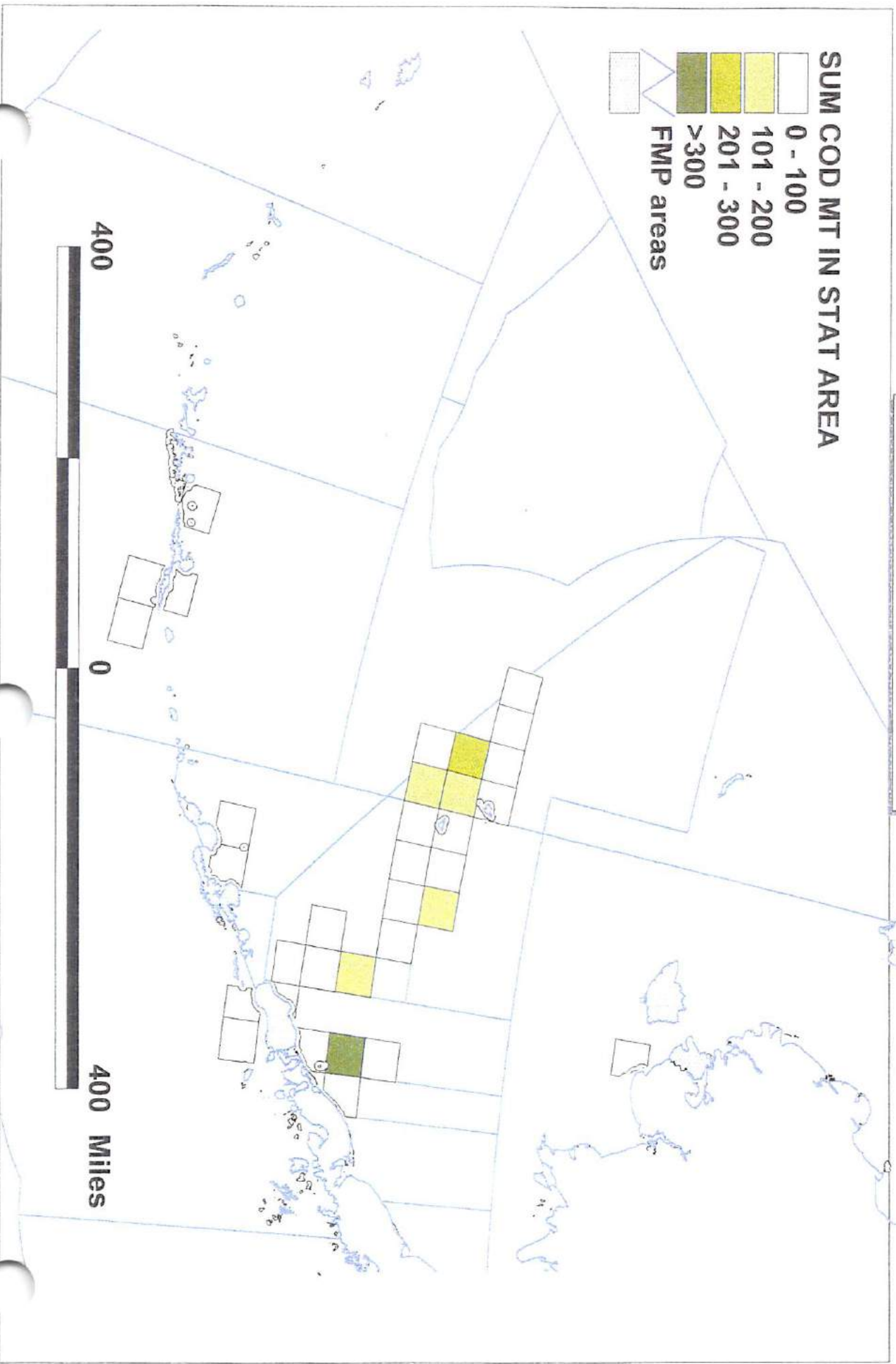
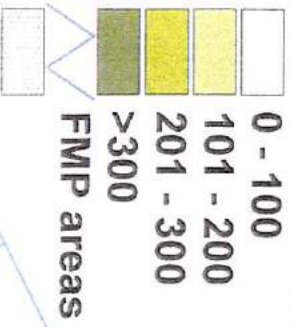
STAT AREAS ARE ADF&G STATISTICAL AREAS

NOTE NONE OF SQUARES WERE GREATER THAN 400 MT

FIS 3/2001

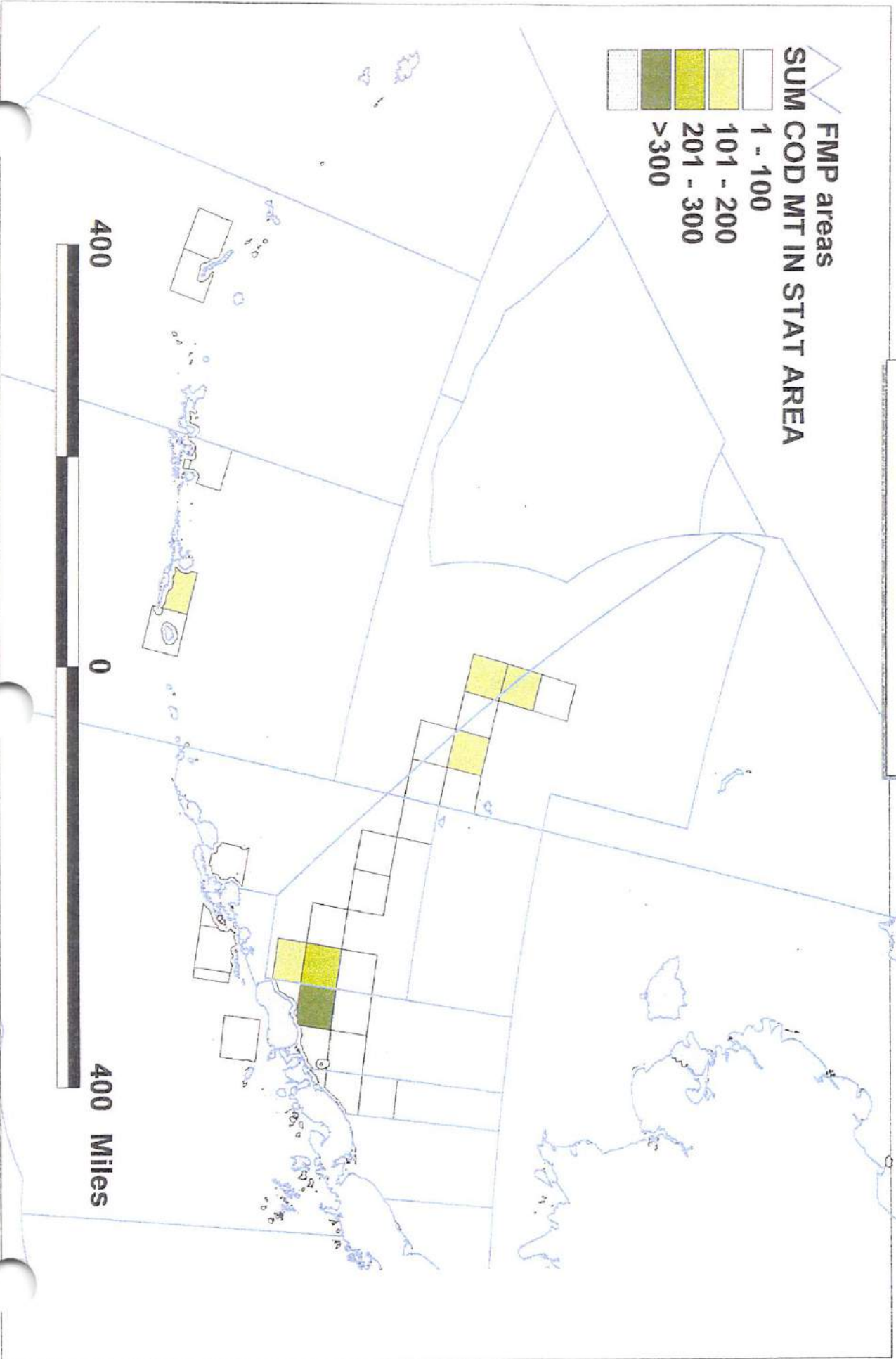
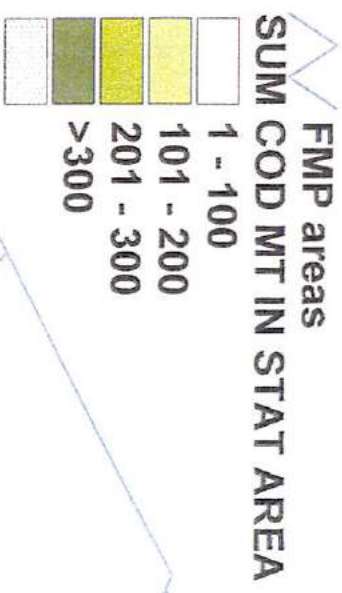
H&L COD CATCH 2000: WEEK 1
BLEND COD MT: 4,457
OBSERVED MT: 1,806

SUM COD MT IN STAT AREA



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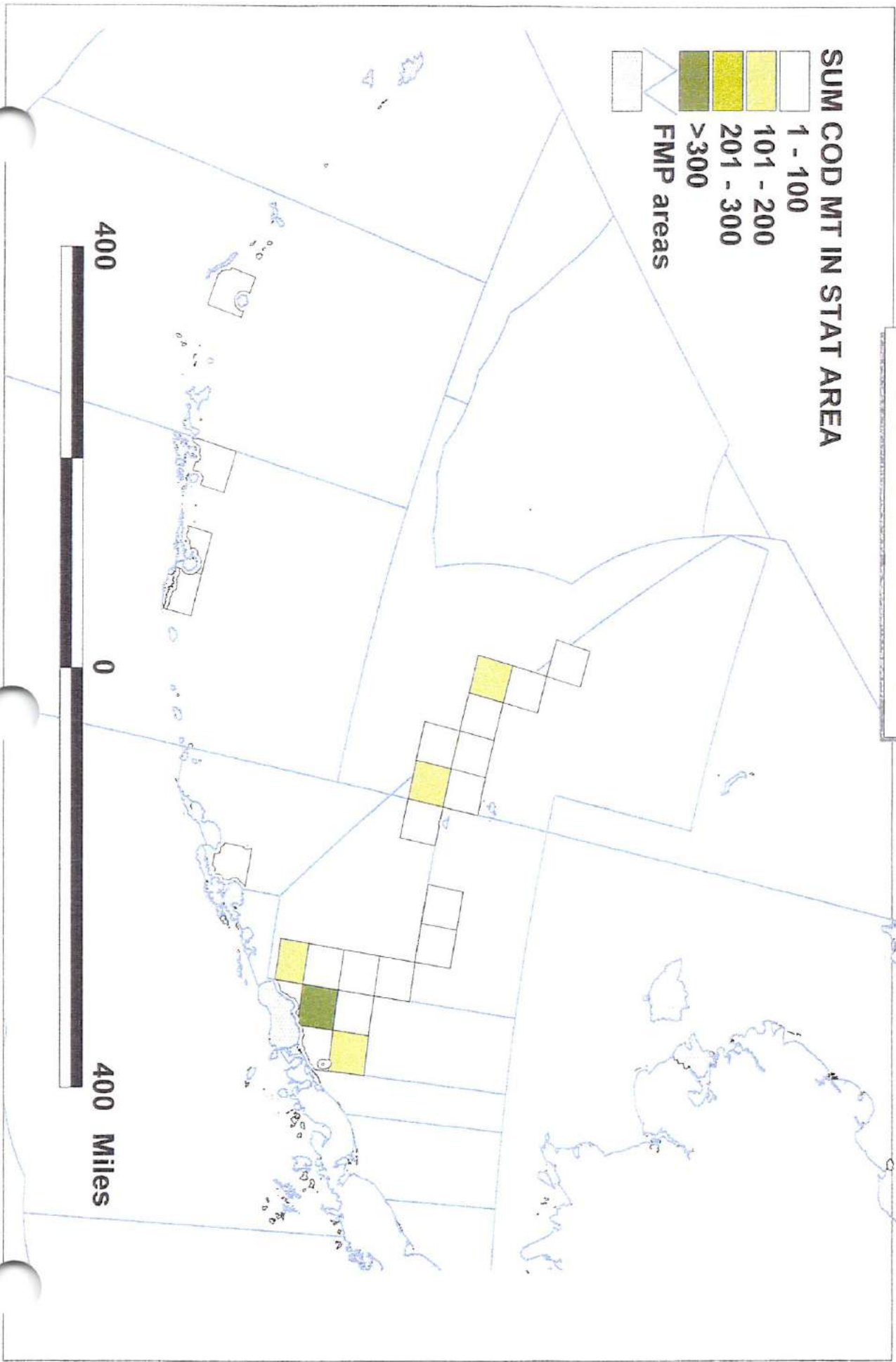
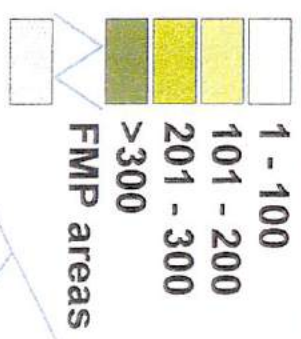
H&L COD CATCH 2000: WEEK 2
BLEND COD MT: 5,073
OBSERVED MTI: 2,148



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H&L COD CATCH 2000: WEEK3
BLEND COD MT: 4,352
OBSERVED MT: 1,496

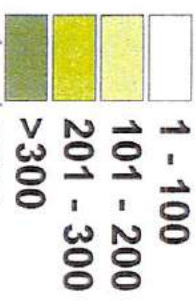
SUM COD MT IN STAT AREA



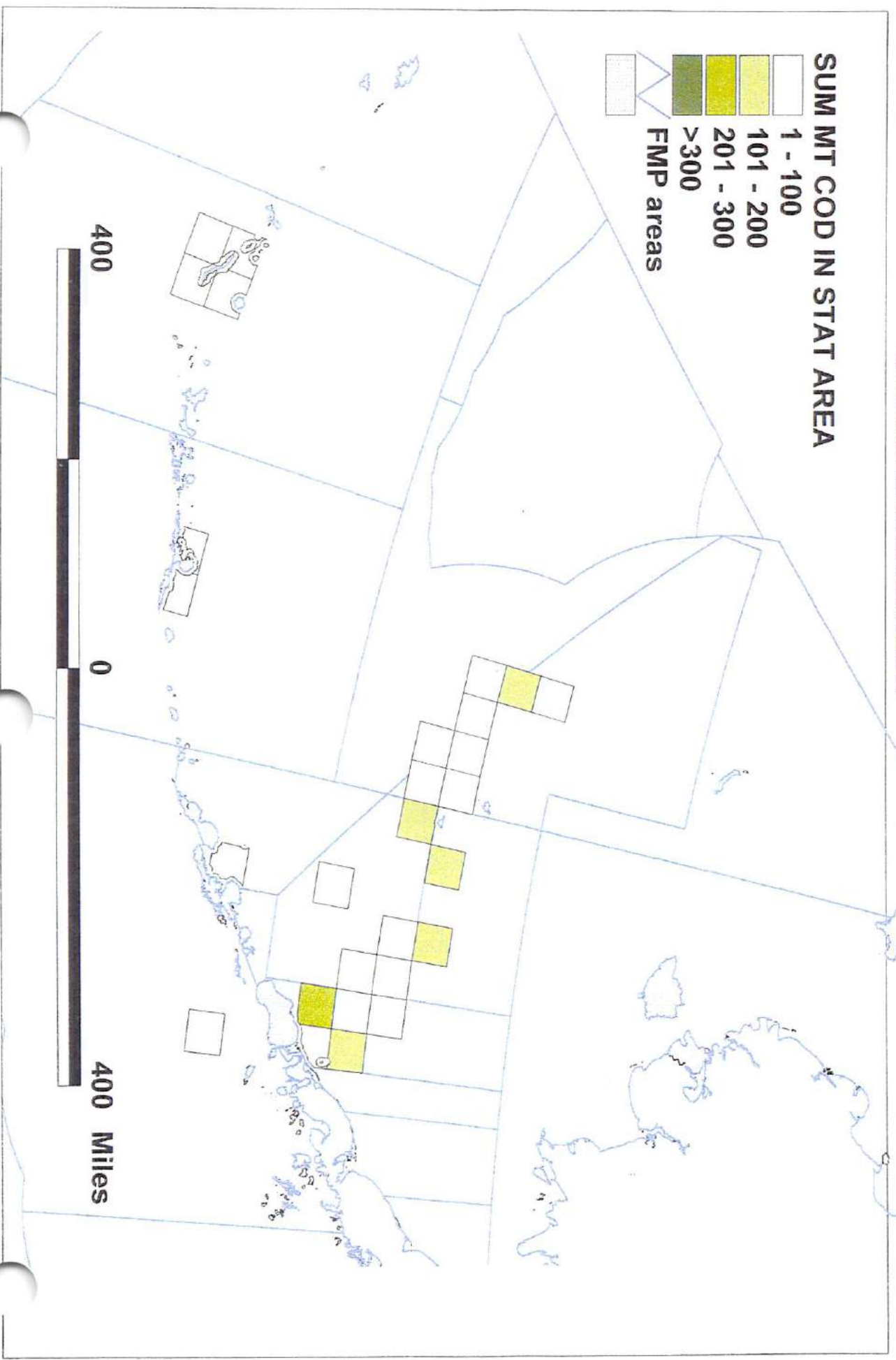
FIS 3/2001

H&L CATCH 2000: WEEK 4
BLEND COD MT: 4,128
OBSERVED MT: 1,897

SUM MT COD IN STAT AREA

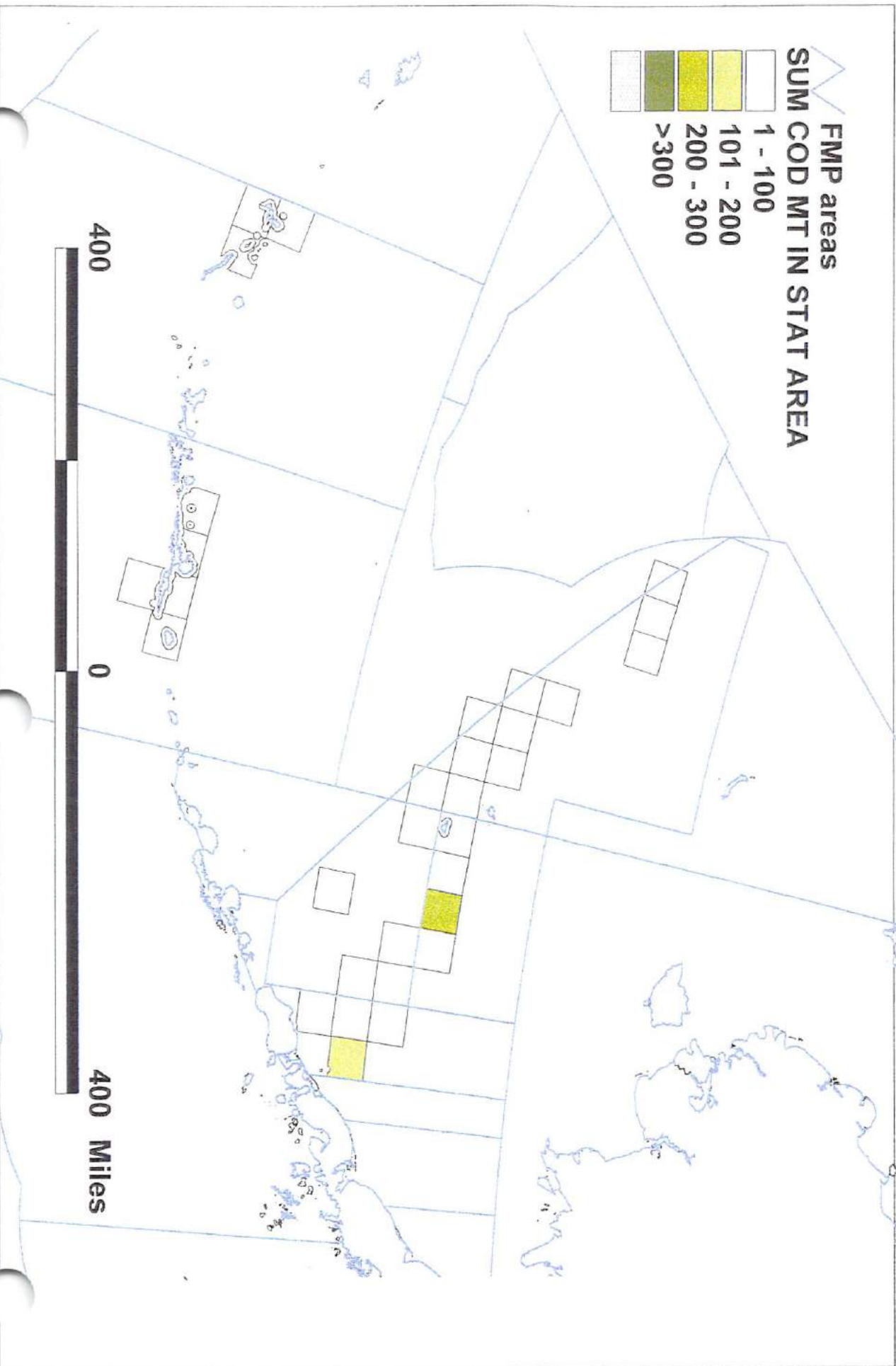


FMP areas



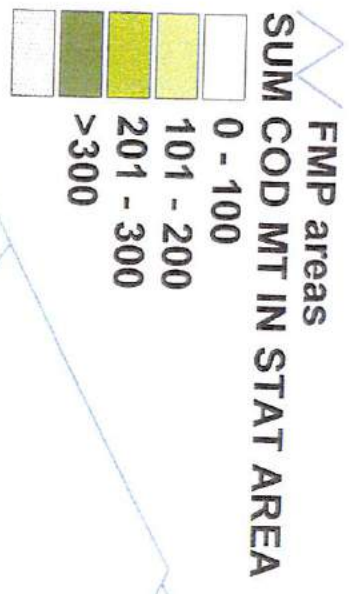
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H&L CATCH 2000: WEEK 5
BLEND COD MT: 3,620
OBSERVED MT: 1,372



FIS 3/2001

H&L COD CATCH 2000: WEEK 6
BLEND COD MT: 3,565
OBSERVED MT: 1,654

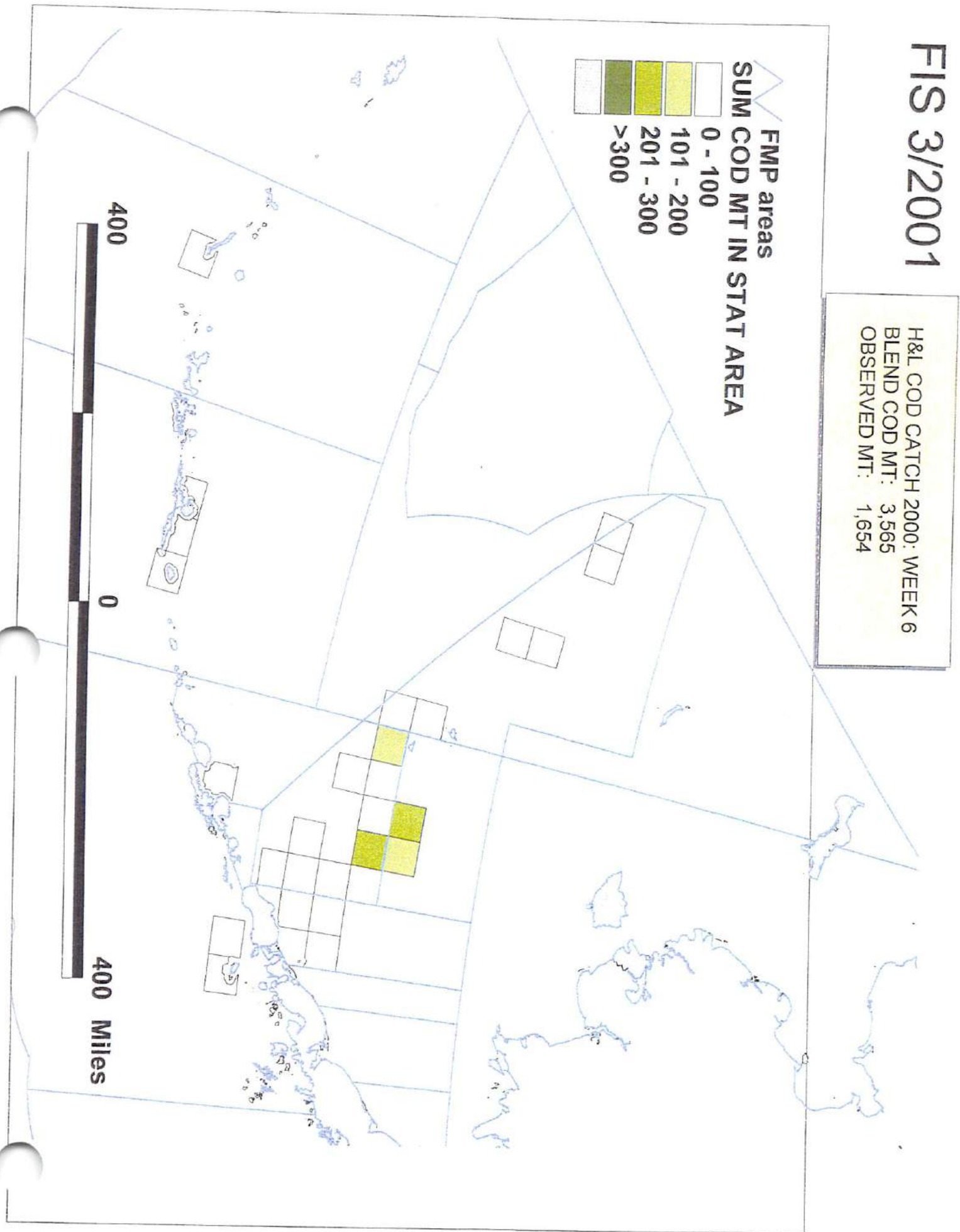


400



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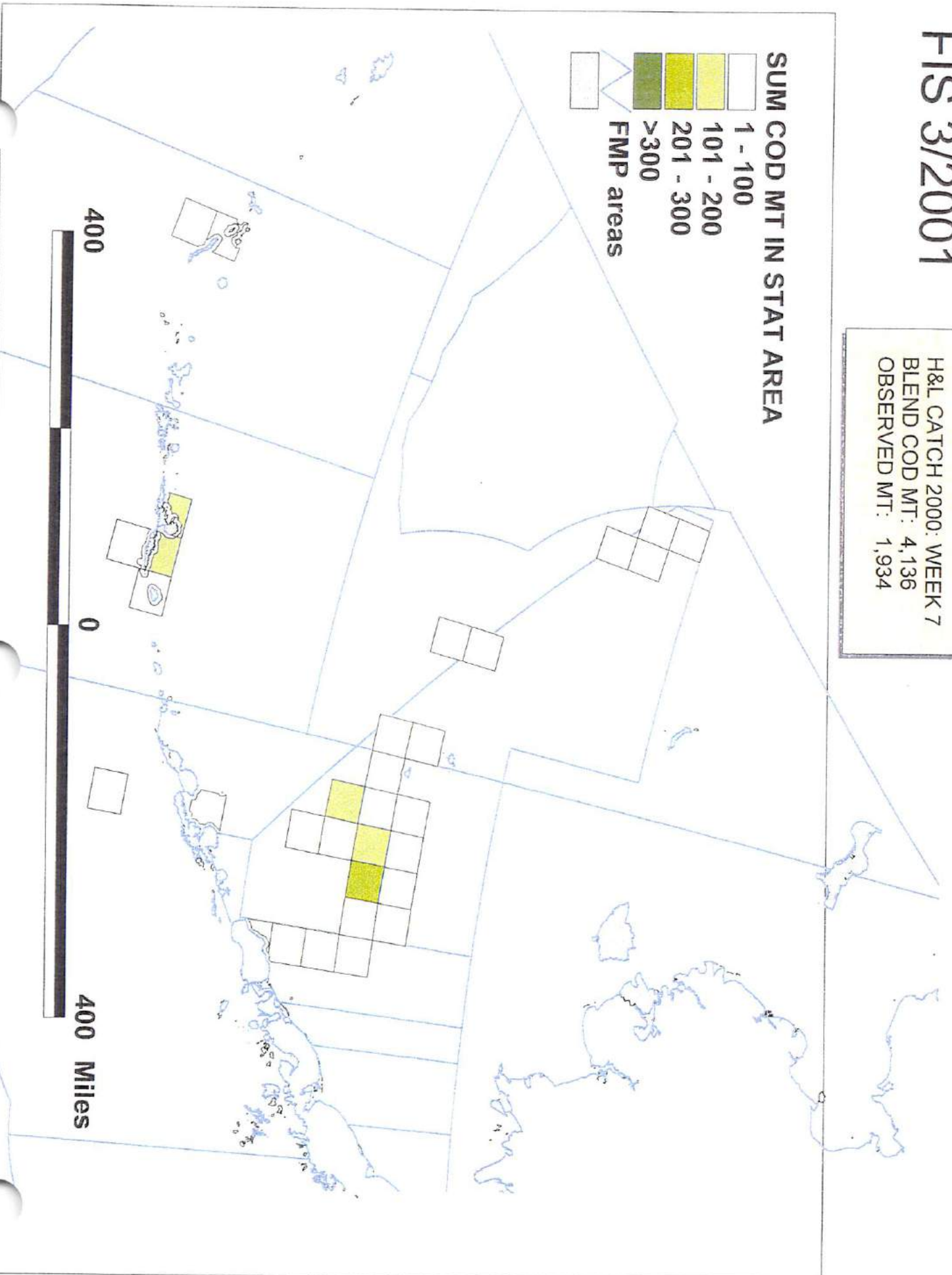
400 Miles



FIS 3/2001

H&L CATCH 2000: WEEK 7
BLEND COD MT: 4,136
OBSERVED MT: 1,934

SUM COD MT IN STAT AREA



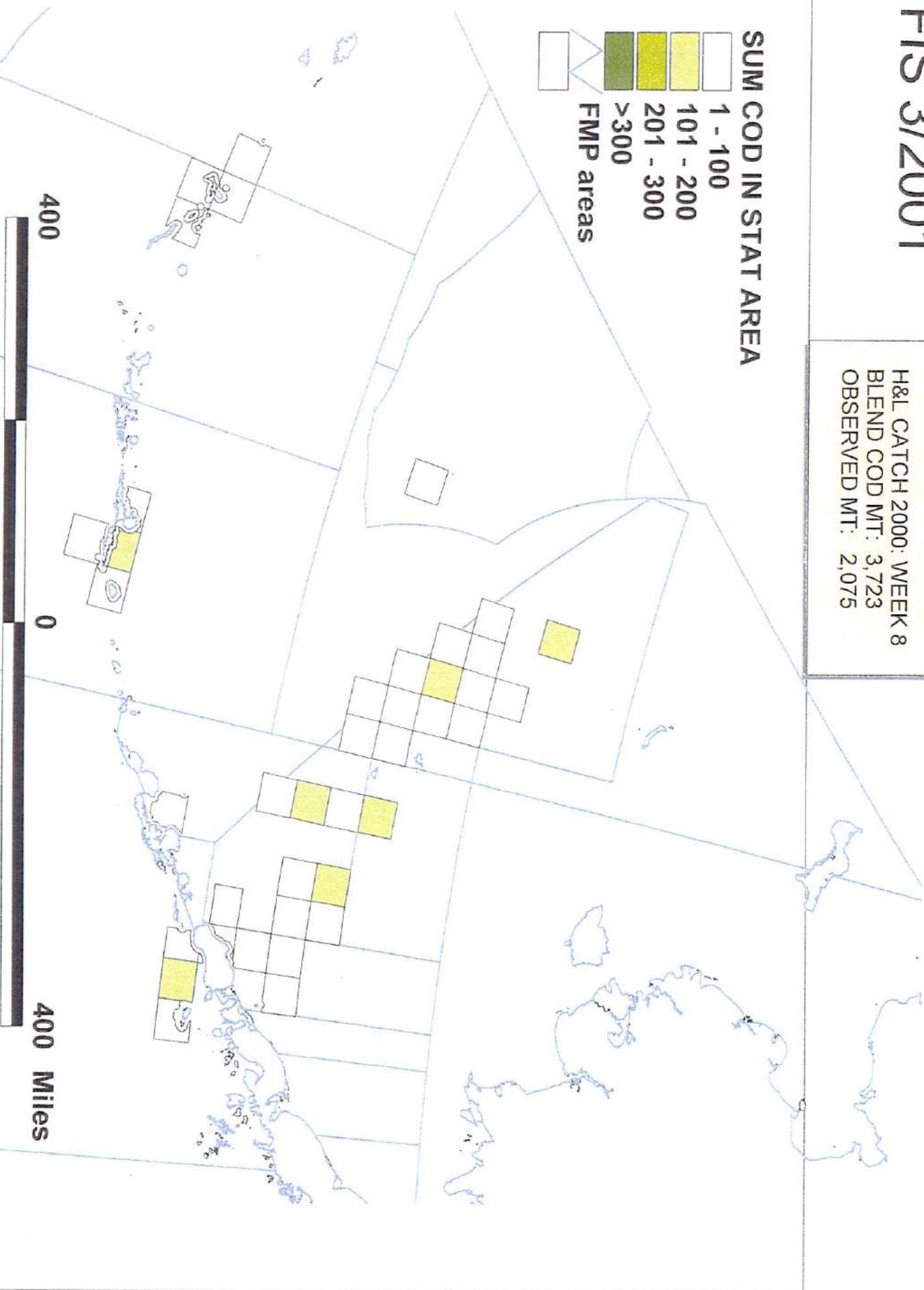
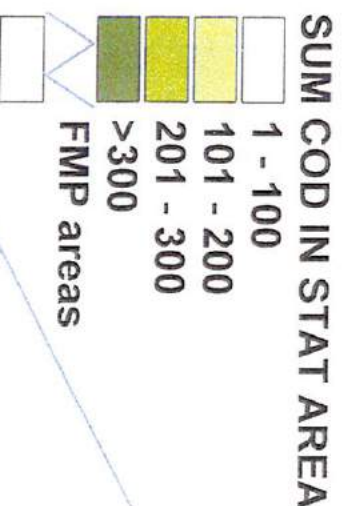
400

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400 Miles

FIS 3/2001

H&L CATCH 2000: WEEK 8
BLEND COD MT: 3,723
OBSERVED MT: 2,075



400

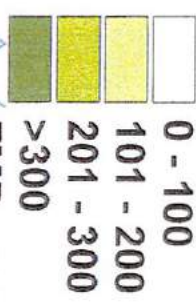
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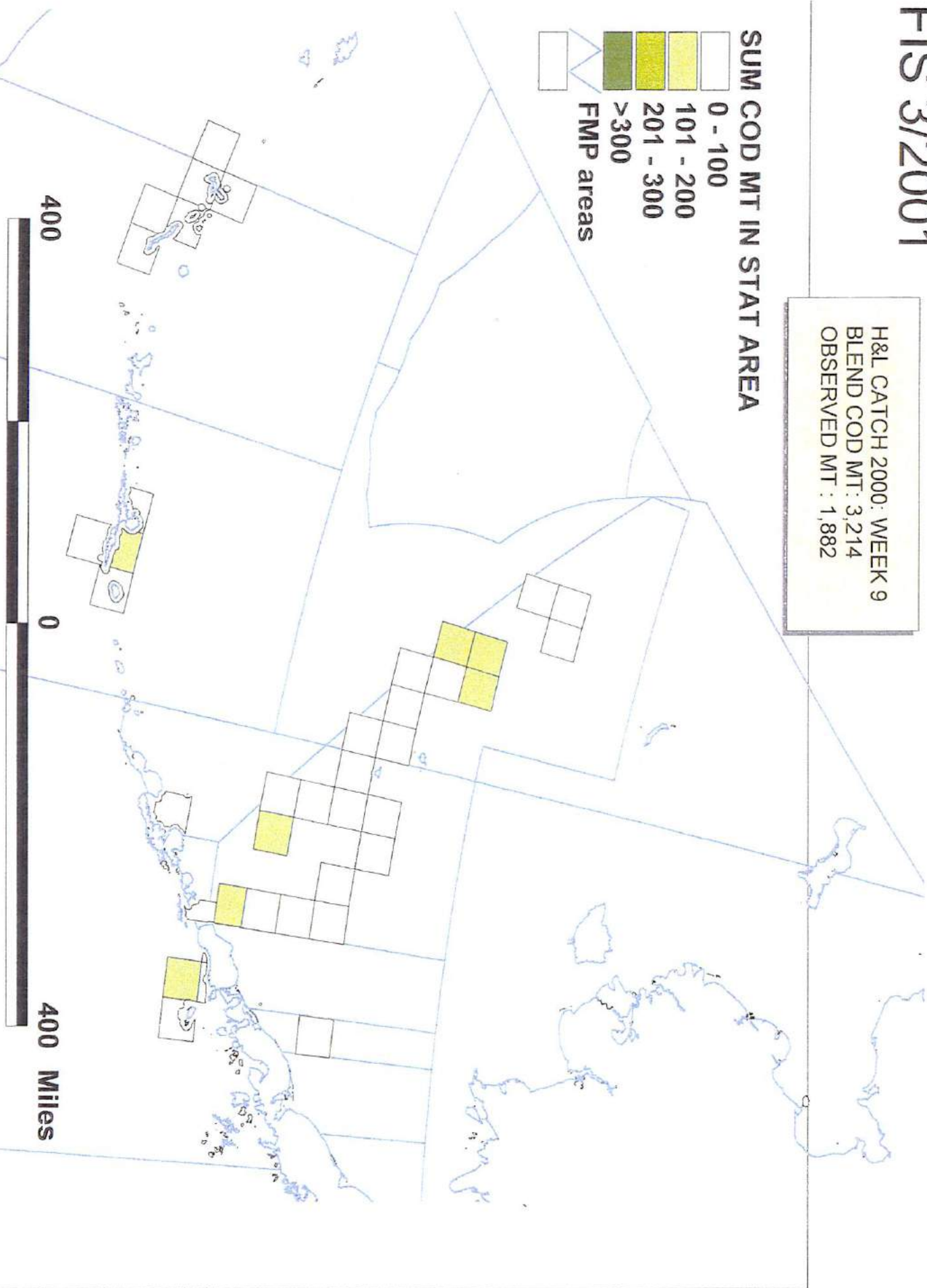
FIS 3/2001

H&L CATCH 2000: WEEK 9
BLEND COD MT: 3,214
OBSERVED MT: 1,882

SUM COD MT IN STAT AREA



FMP areas



400

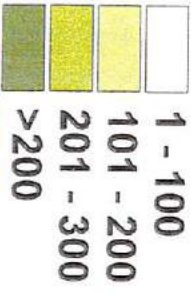
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400 Miles

FIS 3/2001

H&L COD CATCH 2000: WEEK 10
BLEND COD MT: 4,047
OBSERVED MT: 1,583

SUM COD MT IN STAT AREA



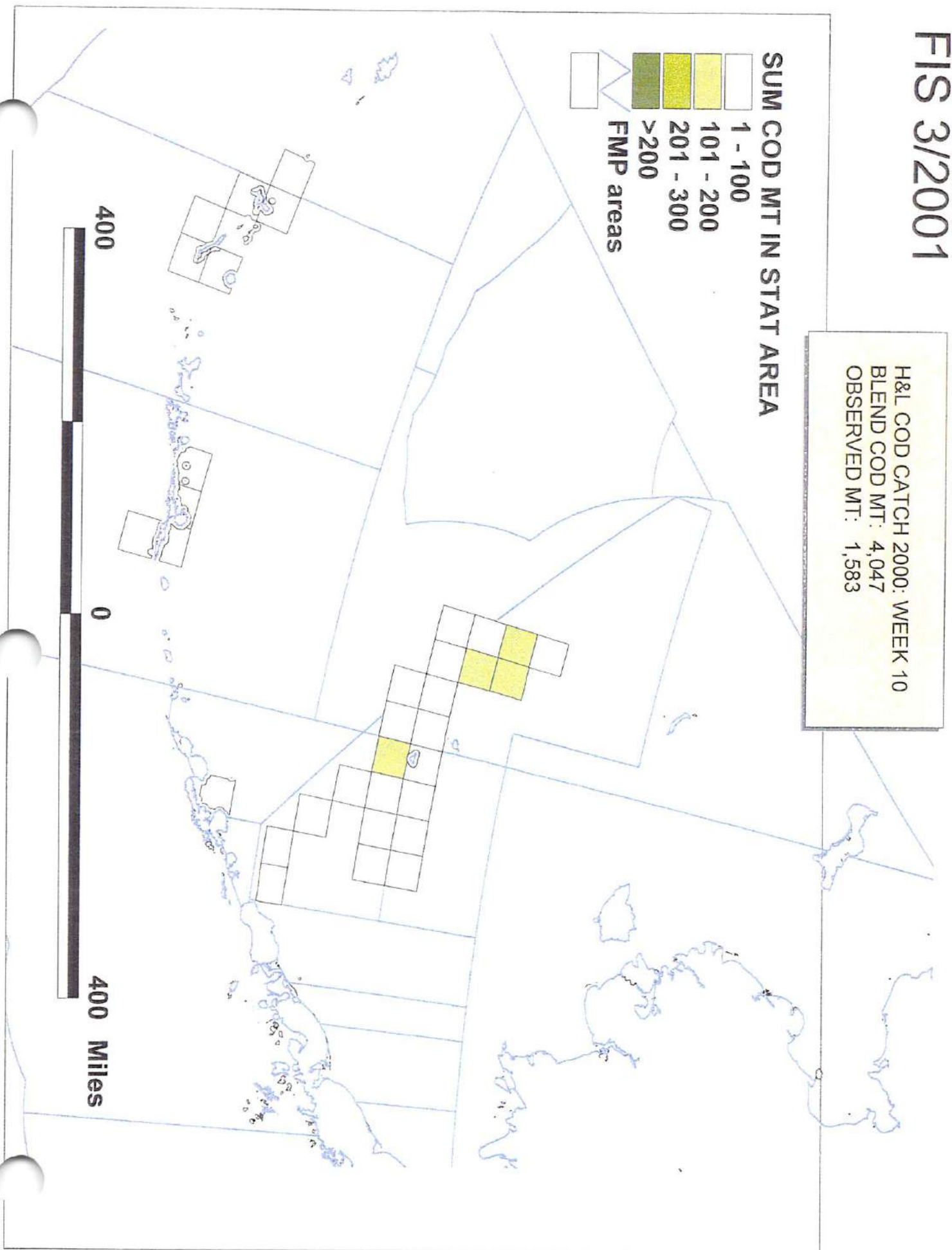
FMP areas



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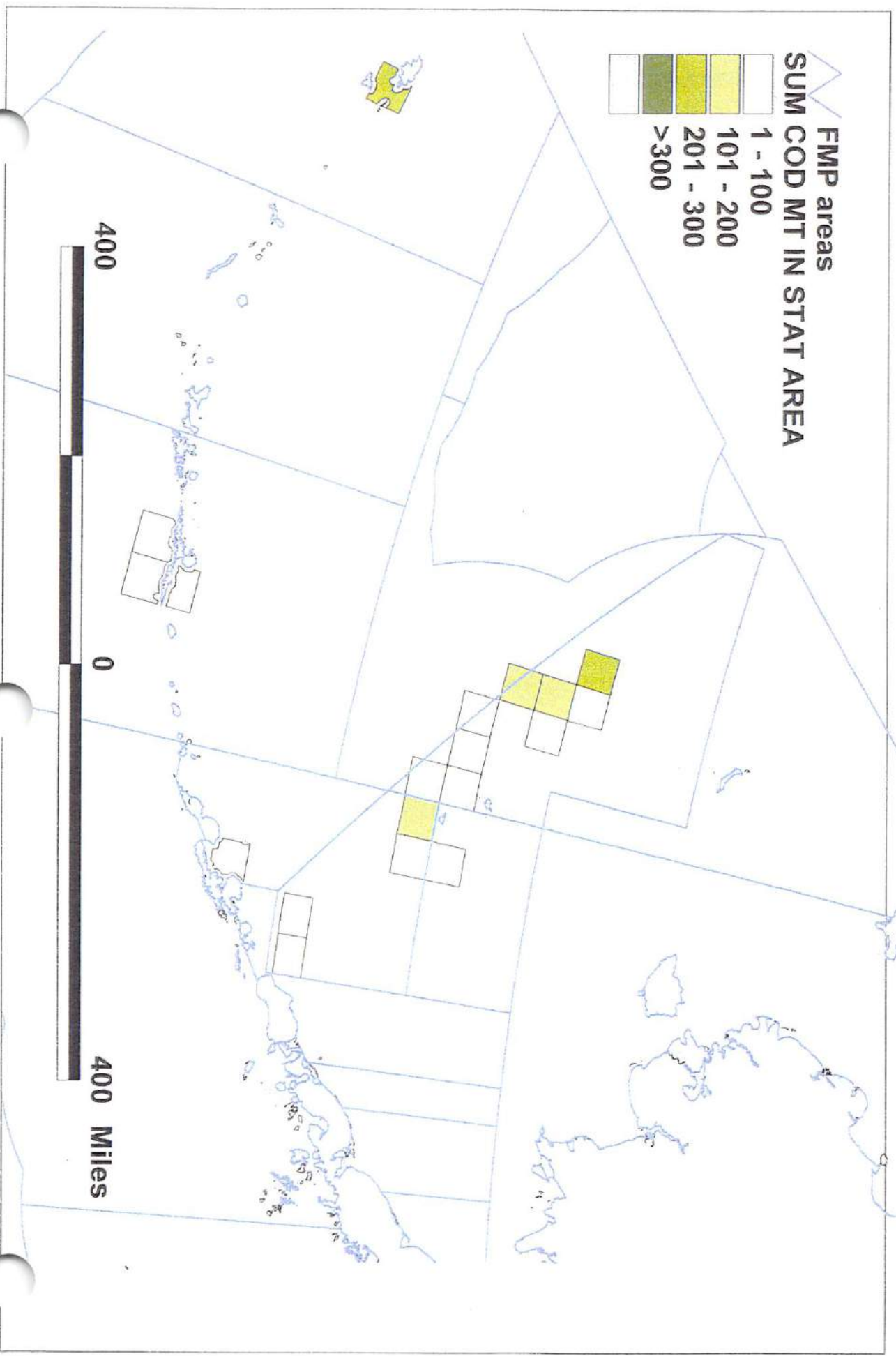
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400 Miles



FIS 3/2001

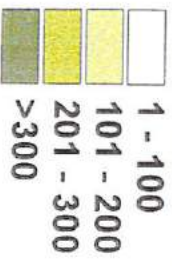
H&L COD CATCH 2000: WEEK 11
OBSERVED CATCH 1,319



FIS 3/2001

H&L COD CATCH 2000: WEEK 12
OBSERVED CATCH: 1,706

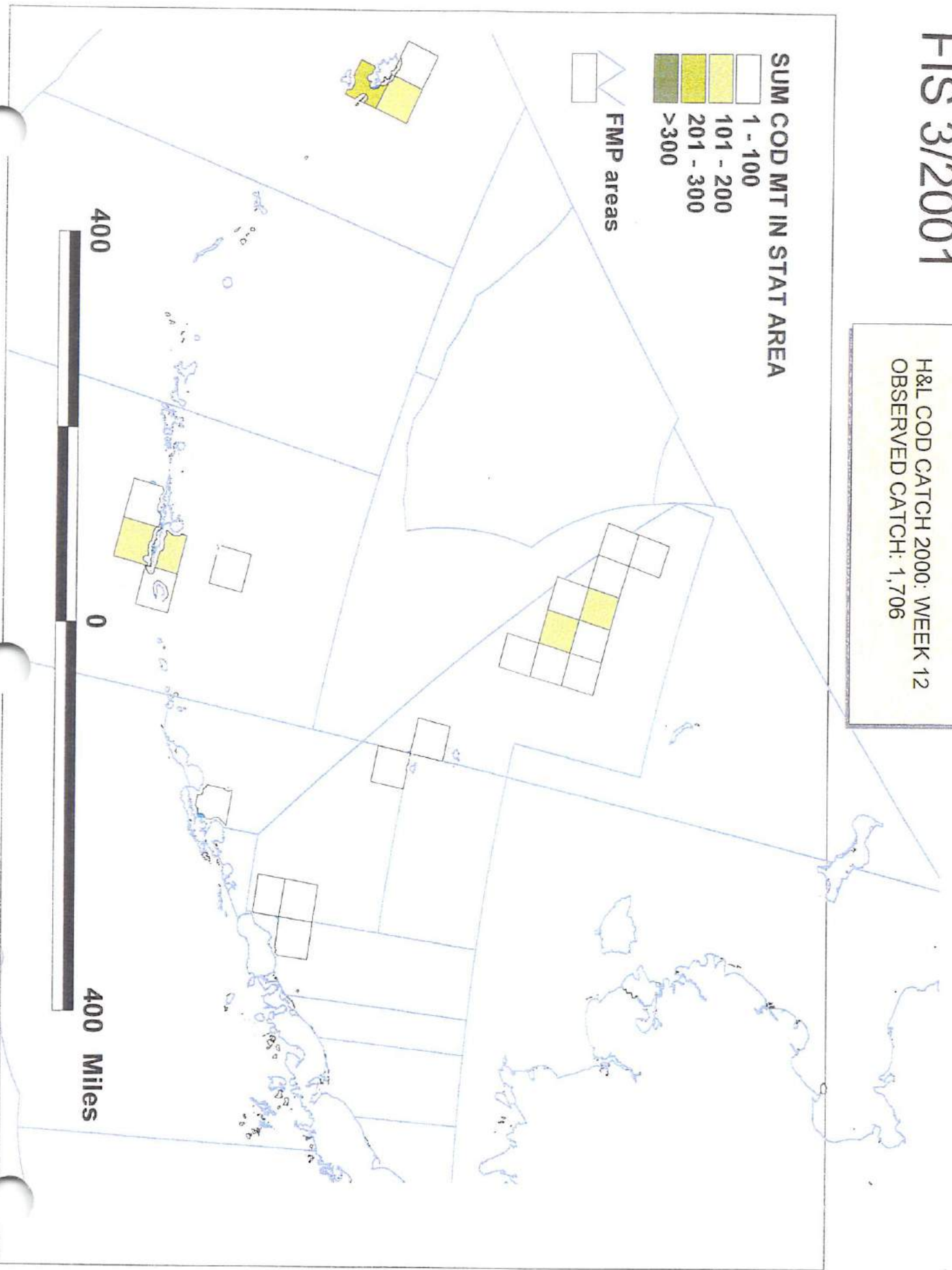
SUM COD MT IN STAT AREA



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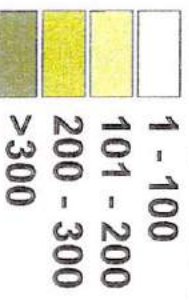
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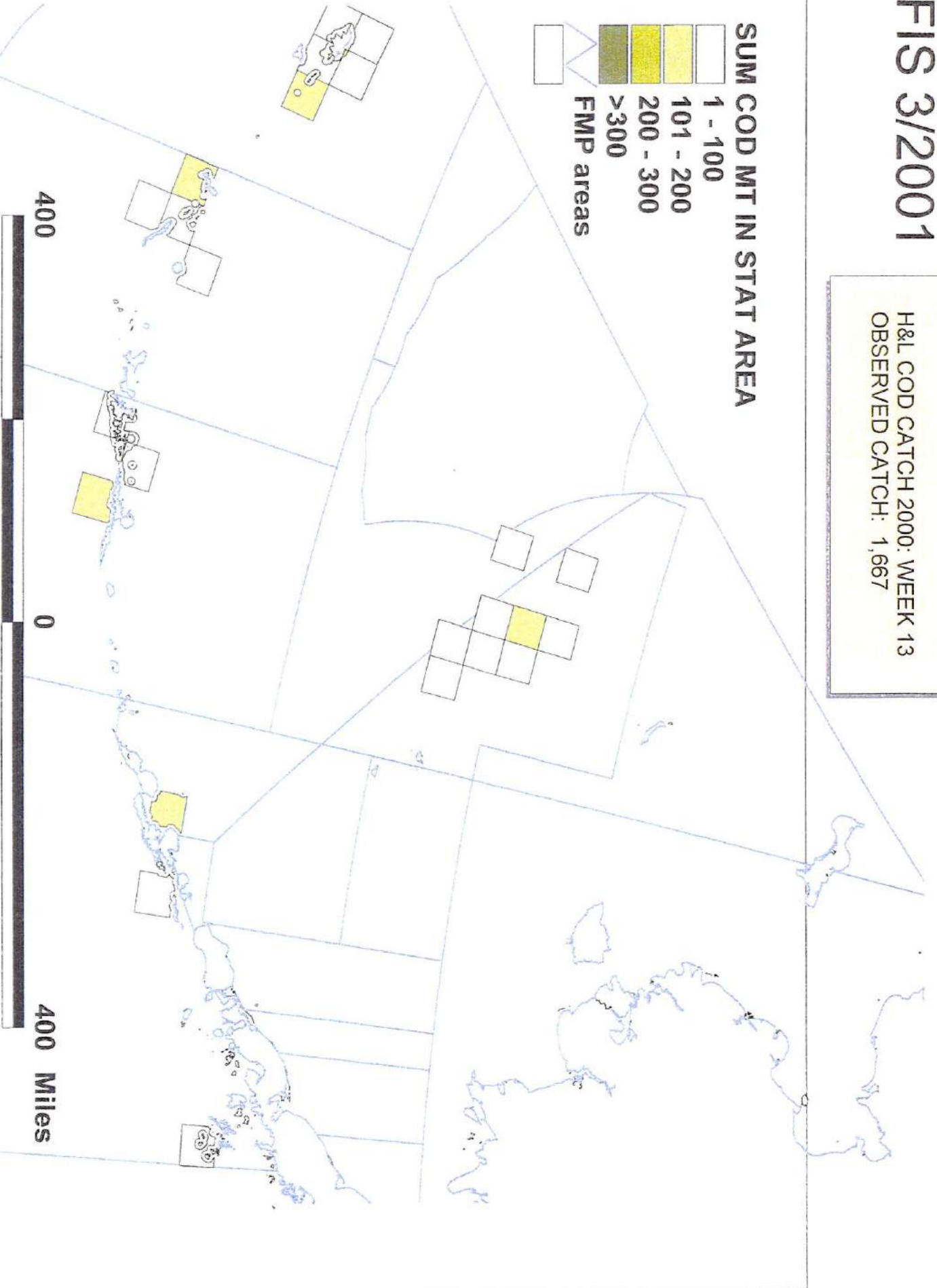
FIS 3/2001

H&L COD CATCH 2000: WEEK 13
OBSERVED CATCH: 1,667

SUM COD MT IN STAT AREA



FMP areas



400

0

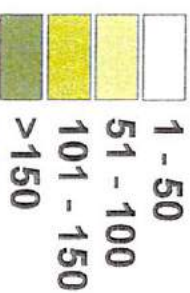
400 Miles



FIS 3/2001

H&L COD CATCH 2000: APRIL
OBSERVED MT 3,180

SUM COD MT IN STAT AREA



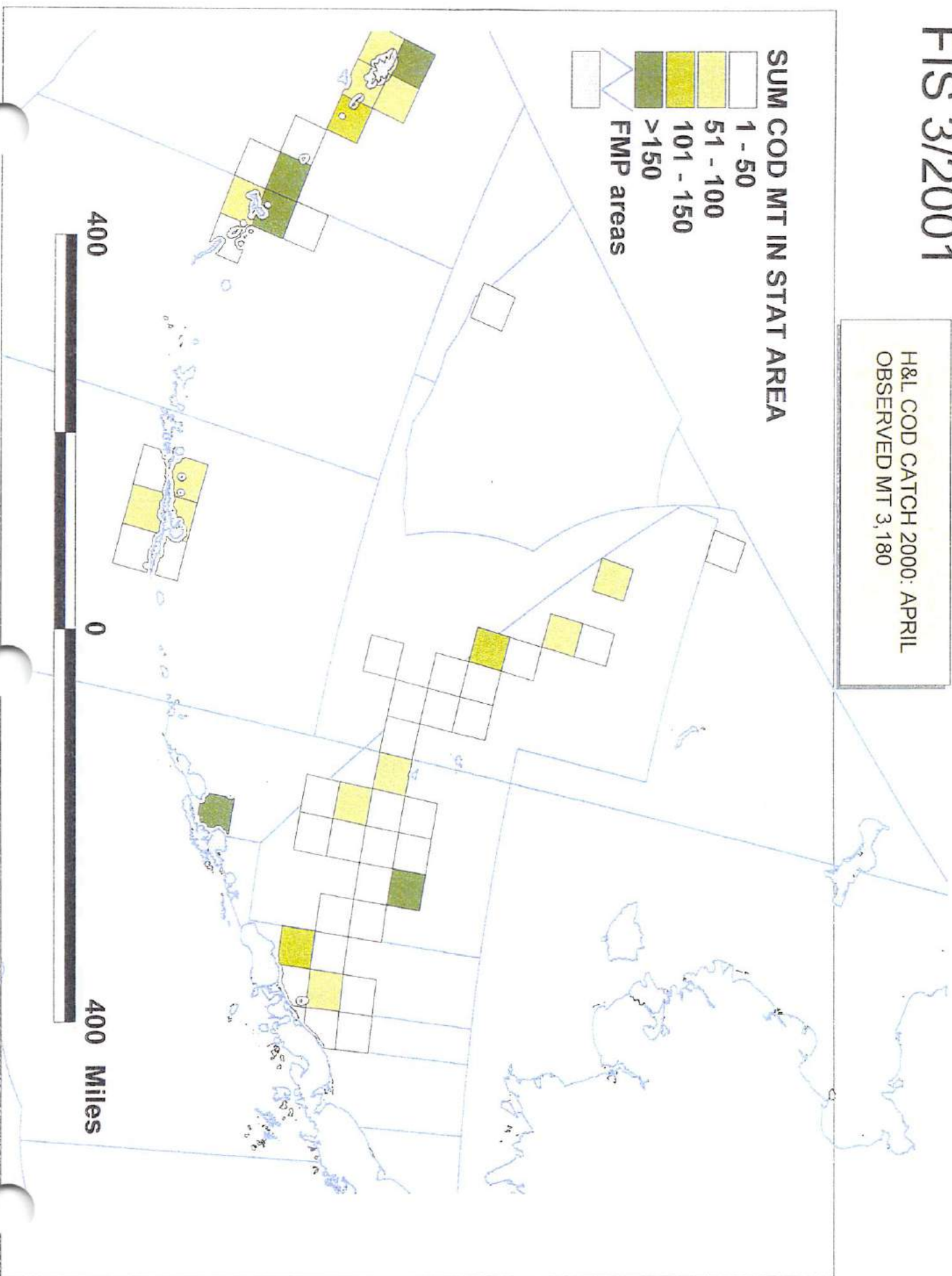
FMP areas



400

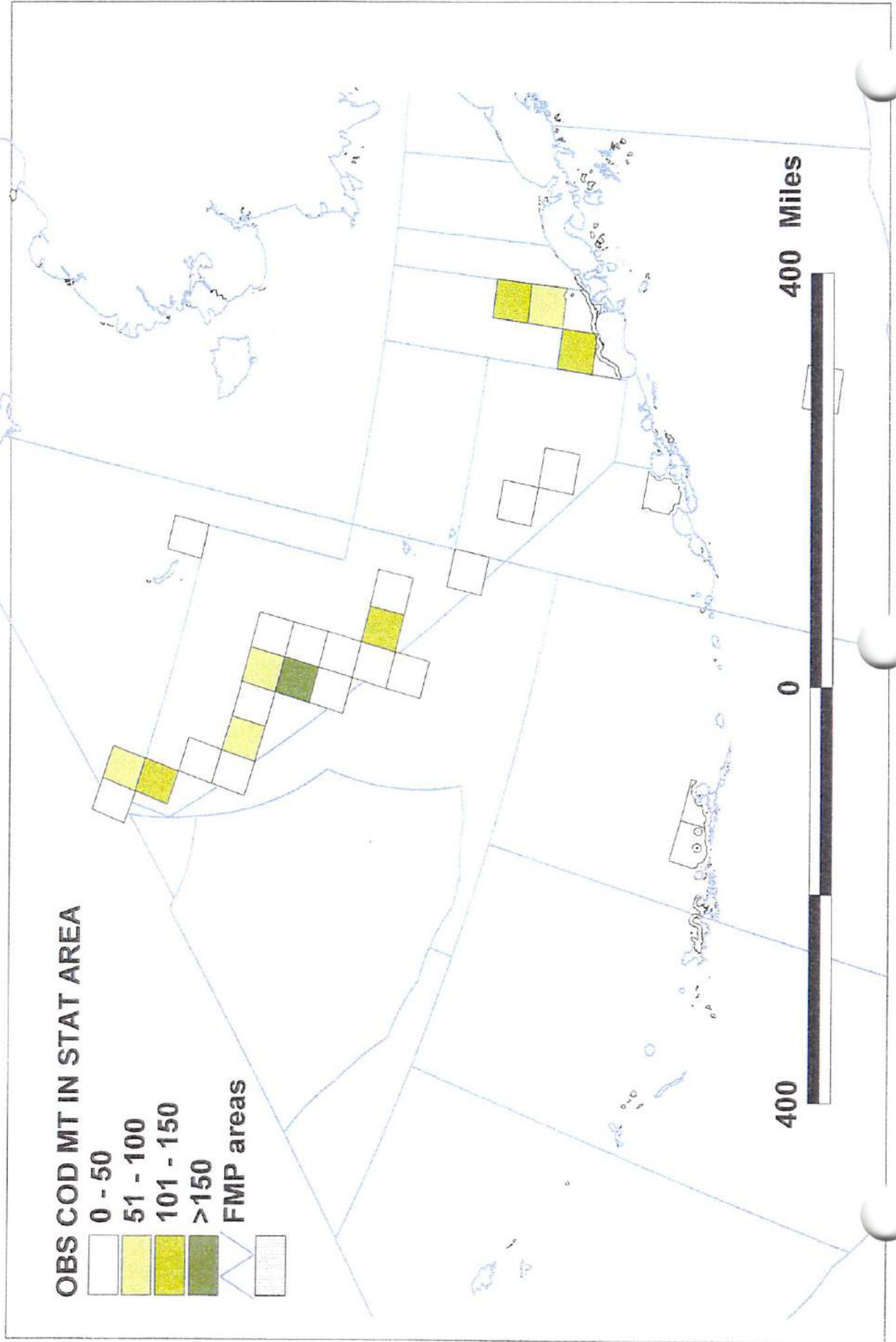
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FIS 3/2001

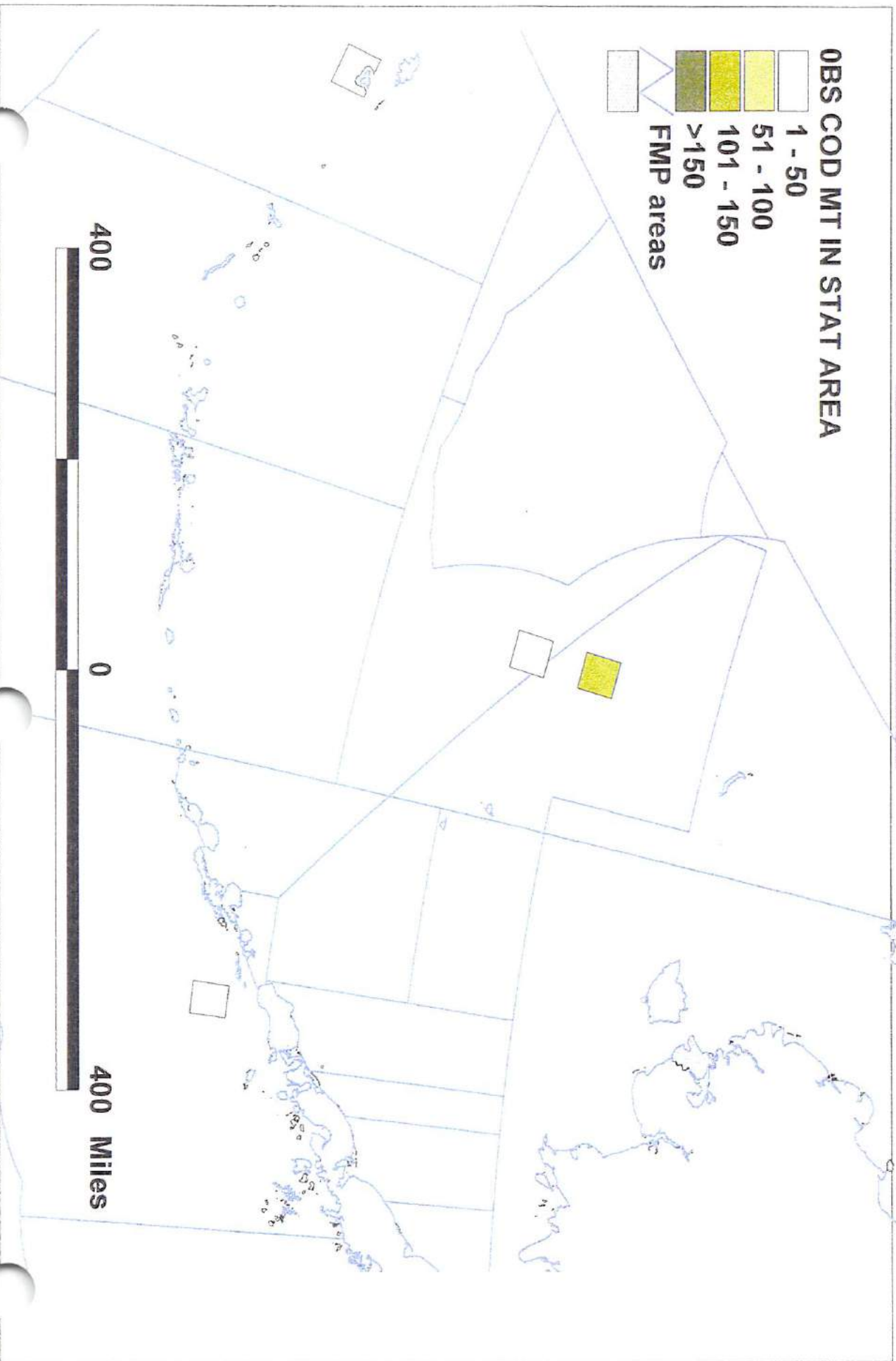
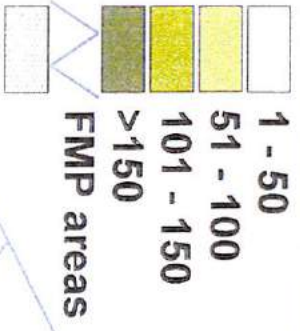
H&L COD CATCH 2000: MAY
OBSERVED MT: 1,205



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H&L COD CATCH 2000: JUNE
OBSERVED MT: 167






OBS COD MT IN STAT AREA

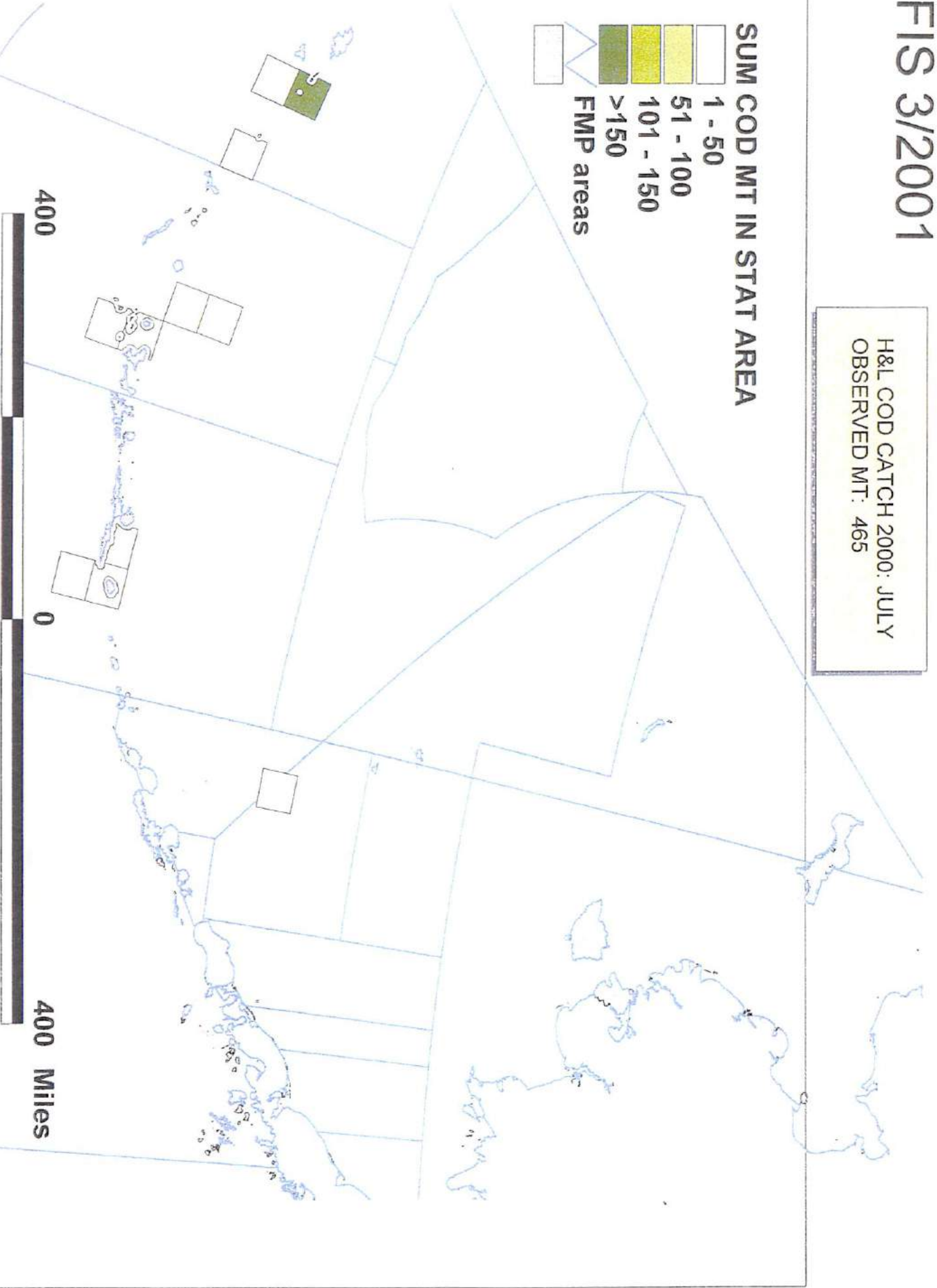


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H&L COD CATCH 2000: JULY
OBSERVED MT: 465

SUM COD MT IN STAT AREA

-  1 - 50
-  51 - 100
-  101 - 150
-  >150
-  FMP areas



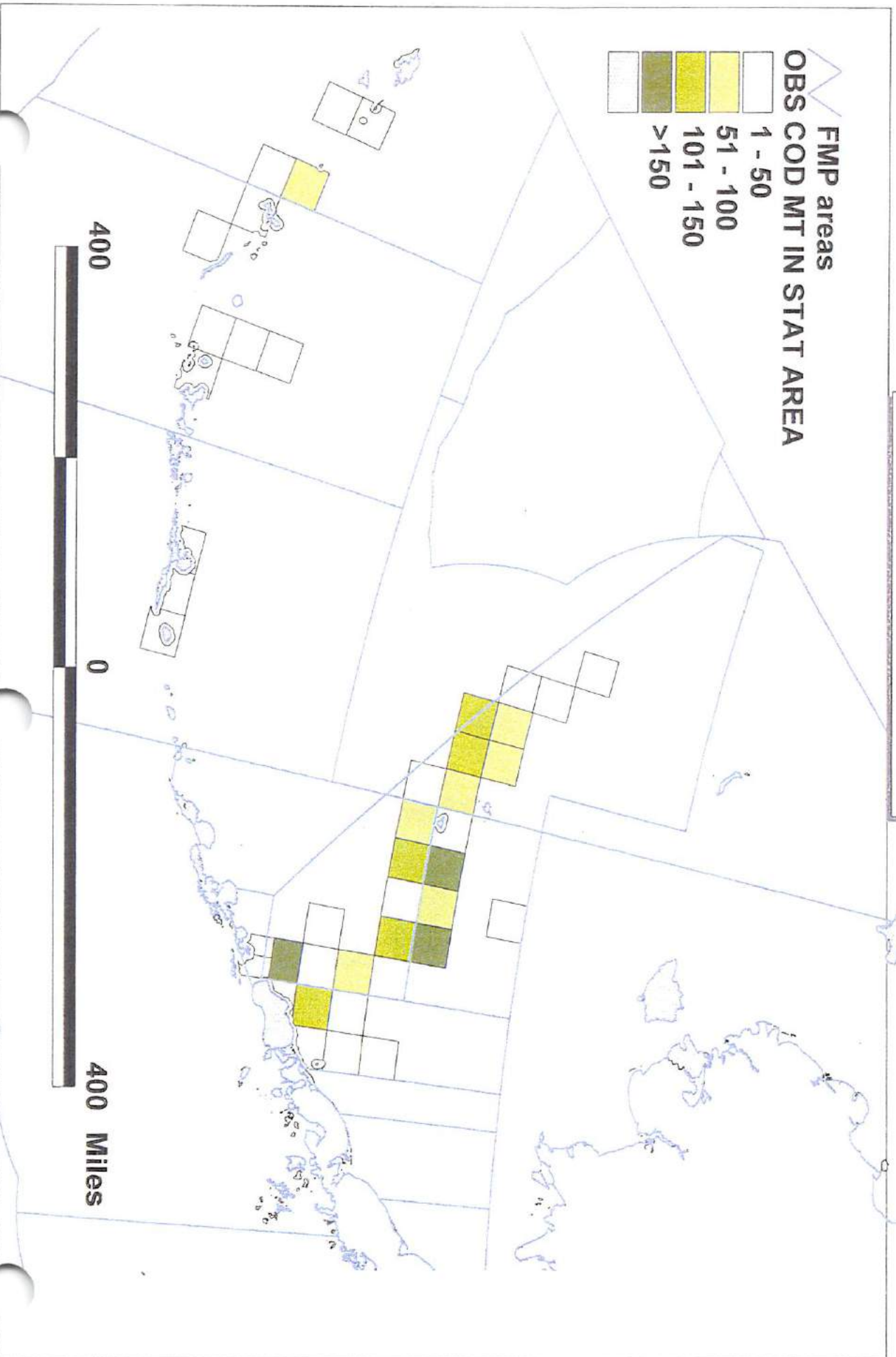
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400 Miles

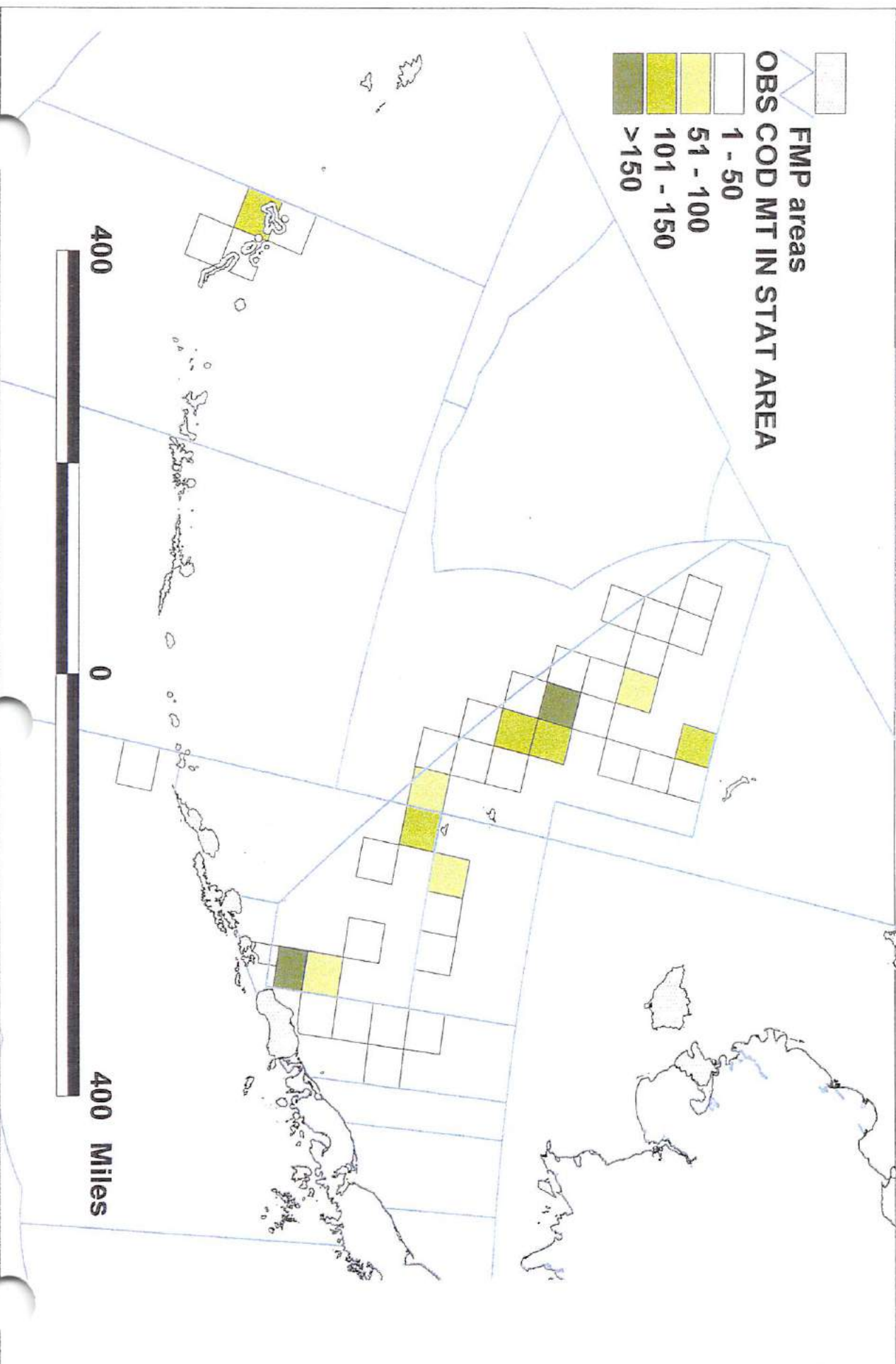
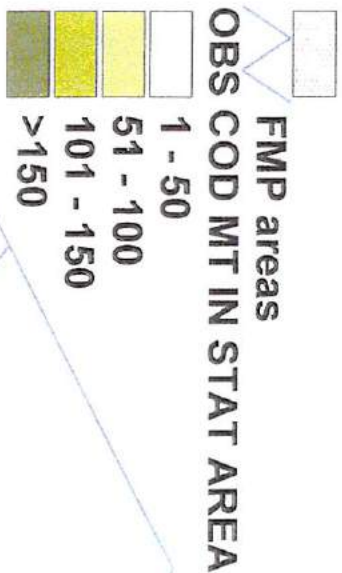
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H&L COD CATCH 2000: AUGUST
OBSERVED MT: 2191



FIS 3/2001

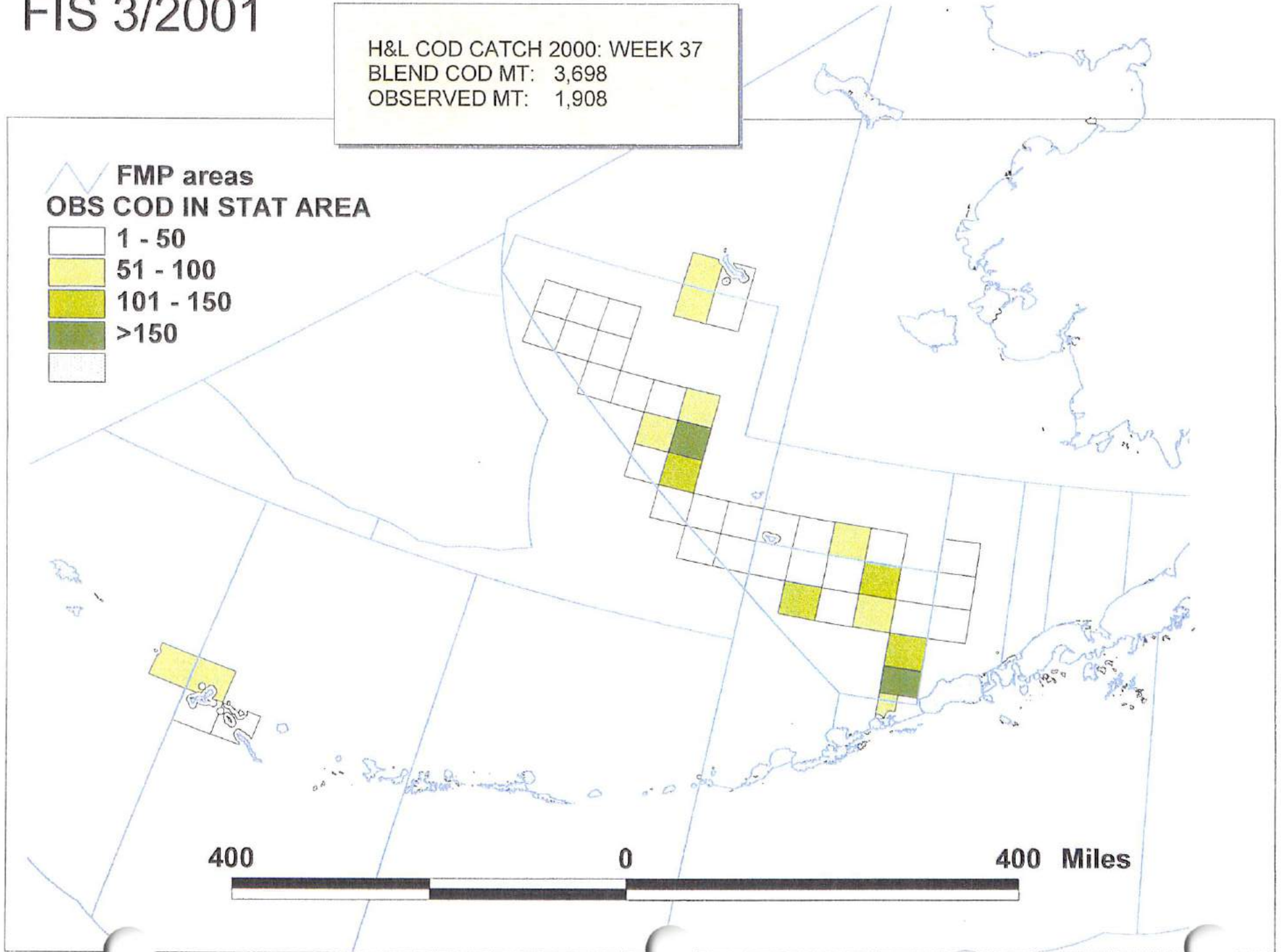
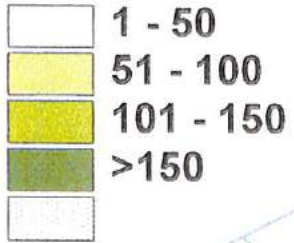
H&L CATCH 2000: WEEK 36
BLEND COD MT: 3,698
OBSERVED MT: 1,732



FIS 3/2001

H&L COD CATCH 2000: WEEK 37
BLEND COD MT: 3,698
OBSERVED MT: 1,908

FMP areas
OBS COD IN STAT AREA

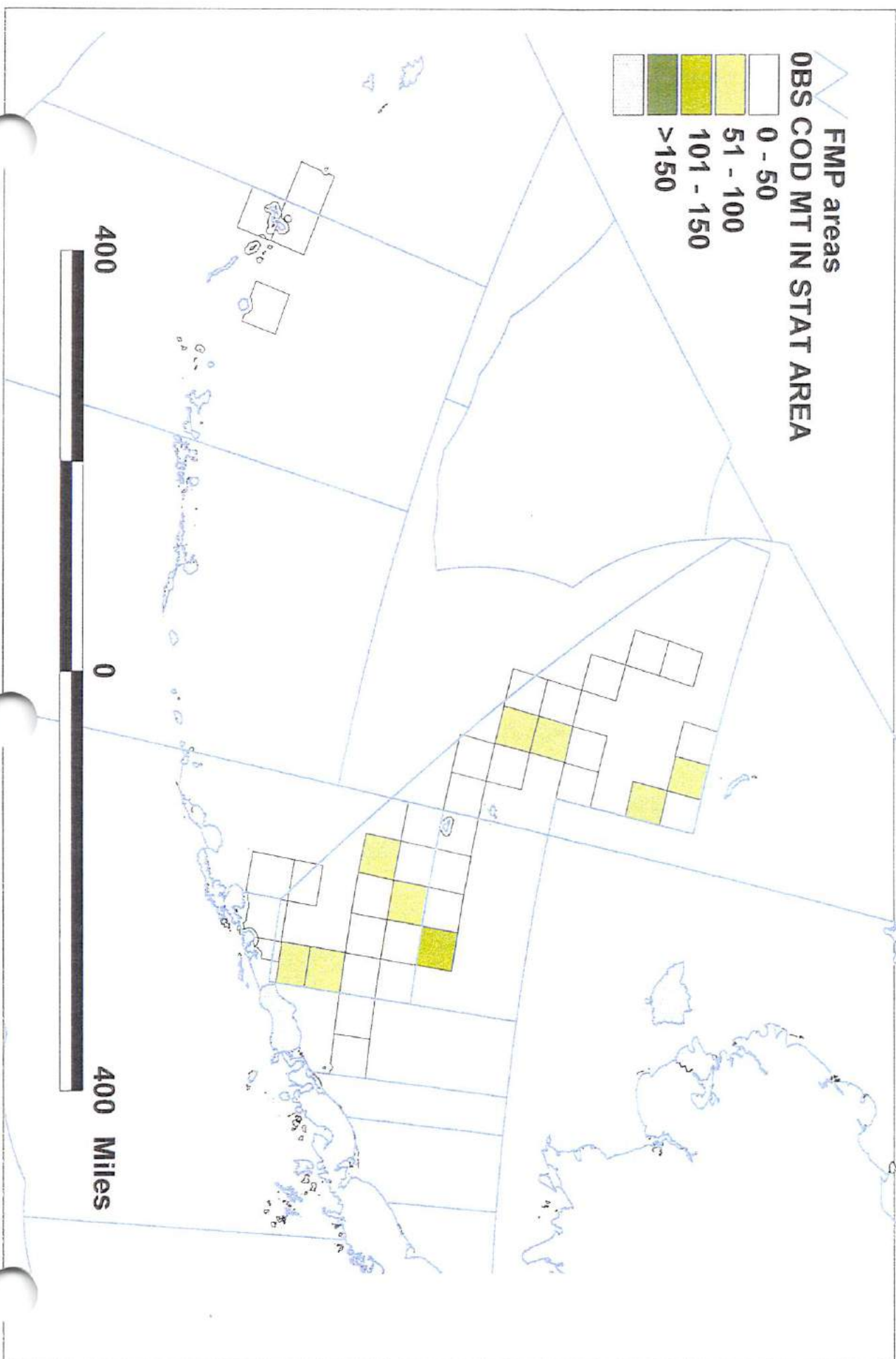
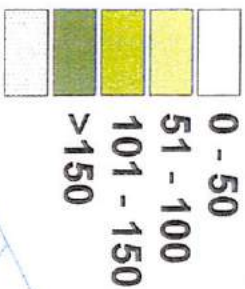


FIS 3/2001

H&L COD CATCH 2000: WEEK 38
BLEND COD MT: 2,972
OBSERVED MT: 1,293

FMP areas

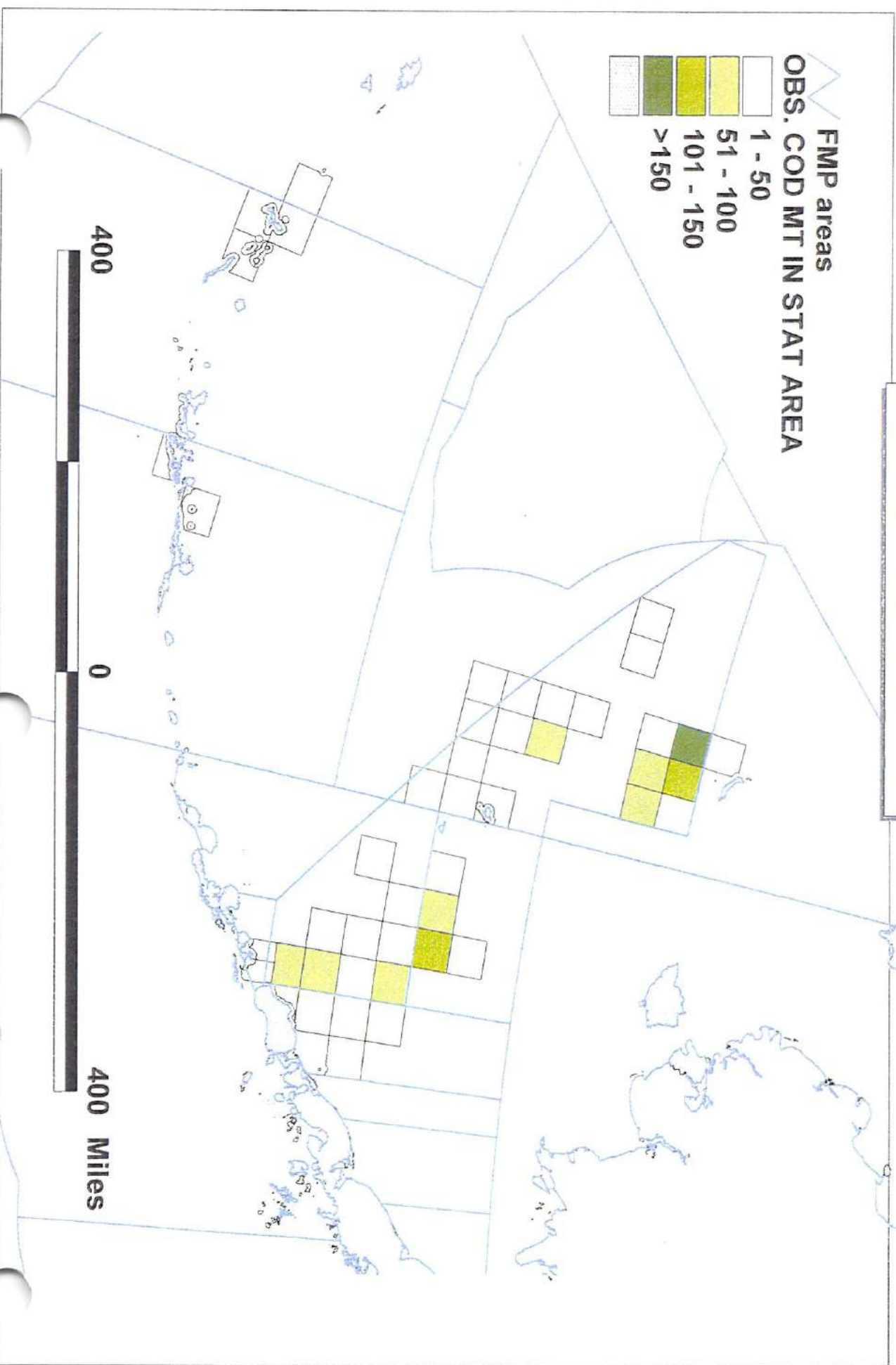
OBS COD MT IN STAT AREA



FIS 3/2001


H&L COD CATCH 2000: WEEK 39
BLEND COD MT: 3,009
OBSERVED MT: 1,443






FMP areas
OBS. COD MT IN STAT AREA

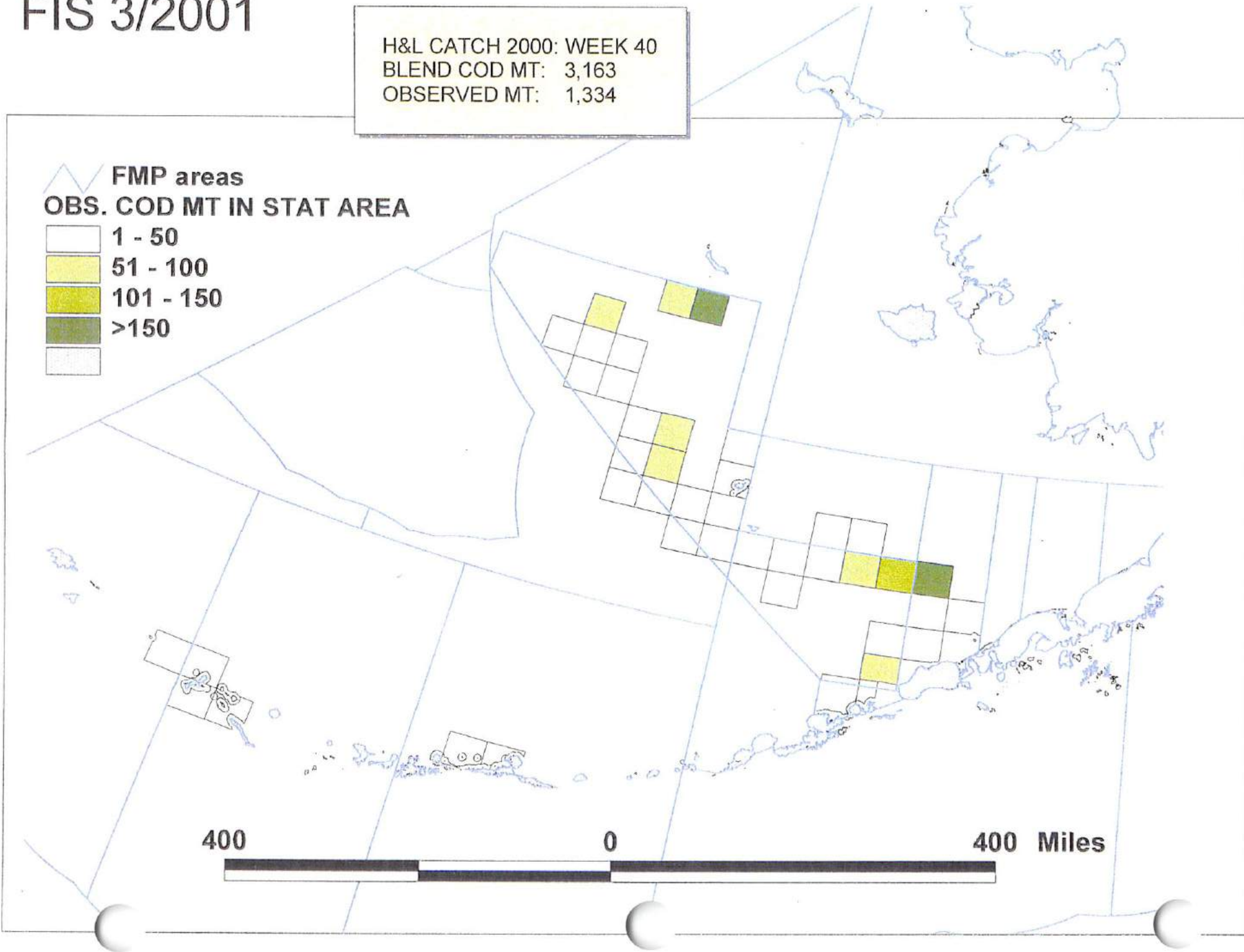


FIS 3/2001

H&L CATCH 2000: WEEK 40
BLEND COD MT: 3,163
OBSERVED MT: 1,334

 **FMP areas**
OBS. COD MT IN STAT AREA

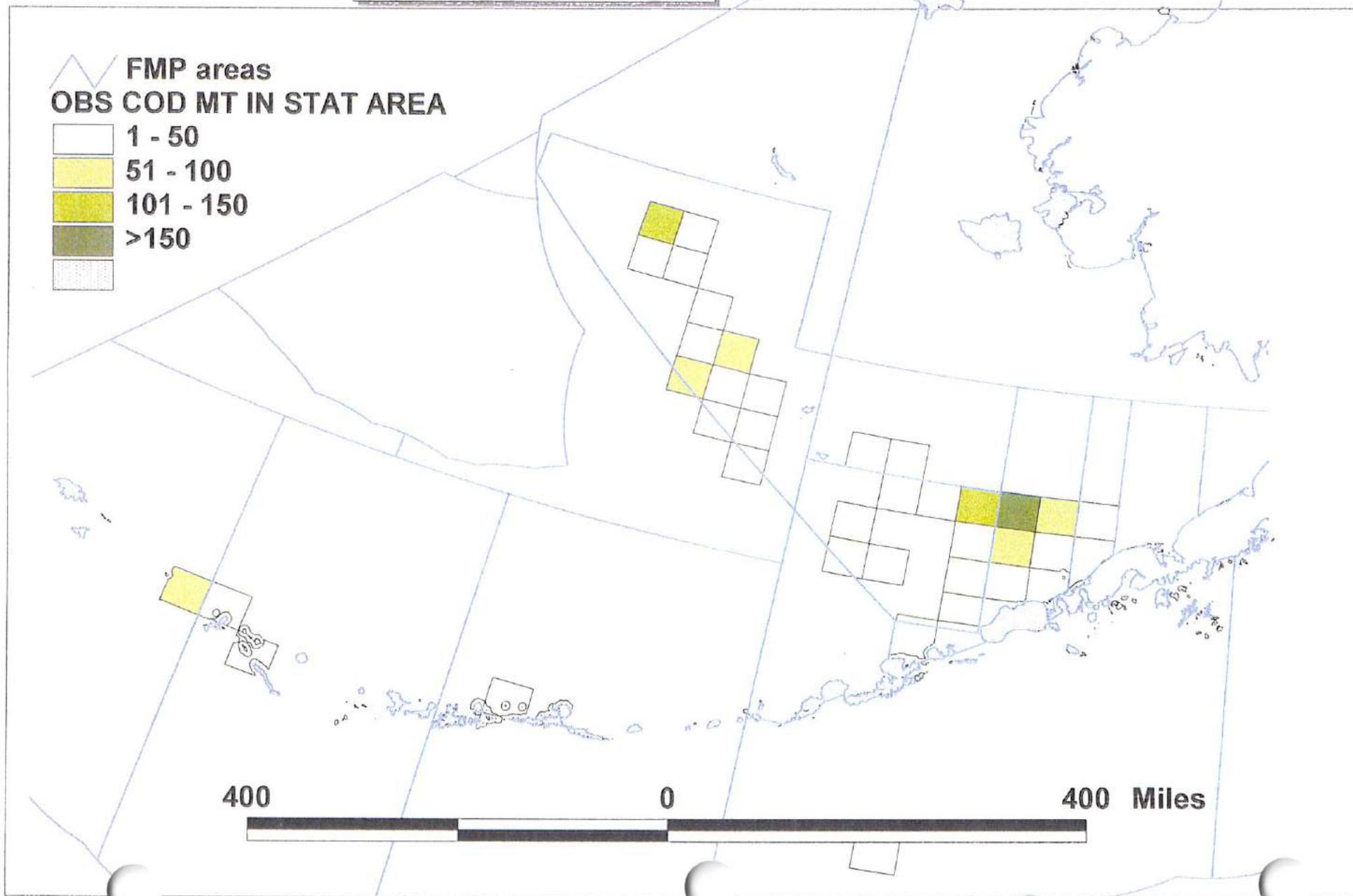
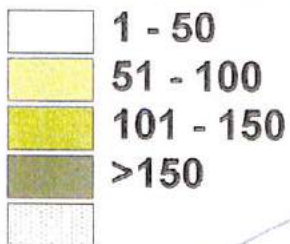
	1 - 50
	51 - 100
	101 - 150
	>150
	



FIS 3/2001

H&L CATCH 2000: WEEK 41
BLEND COD MT: 3,099
OBSERVED MT: 1,303

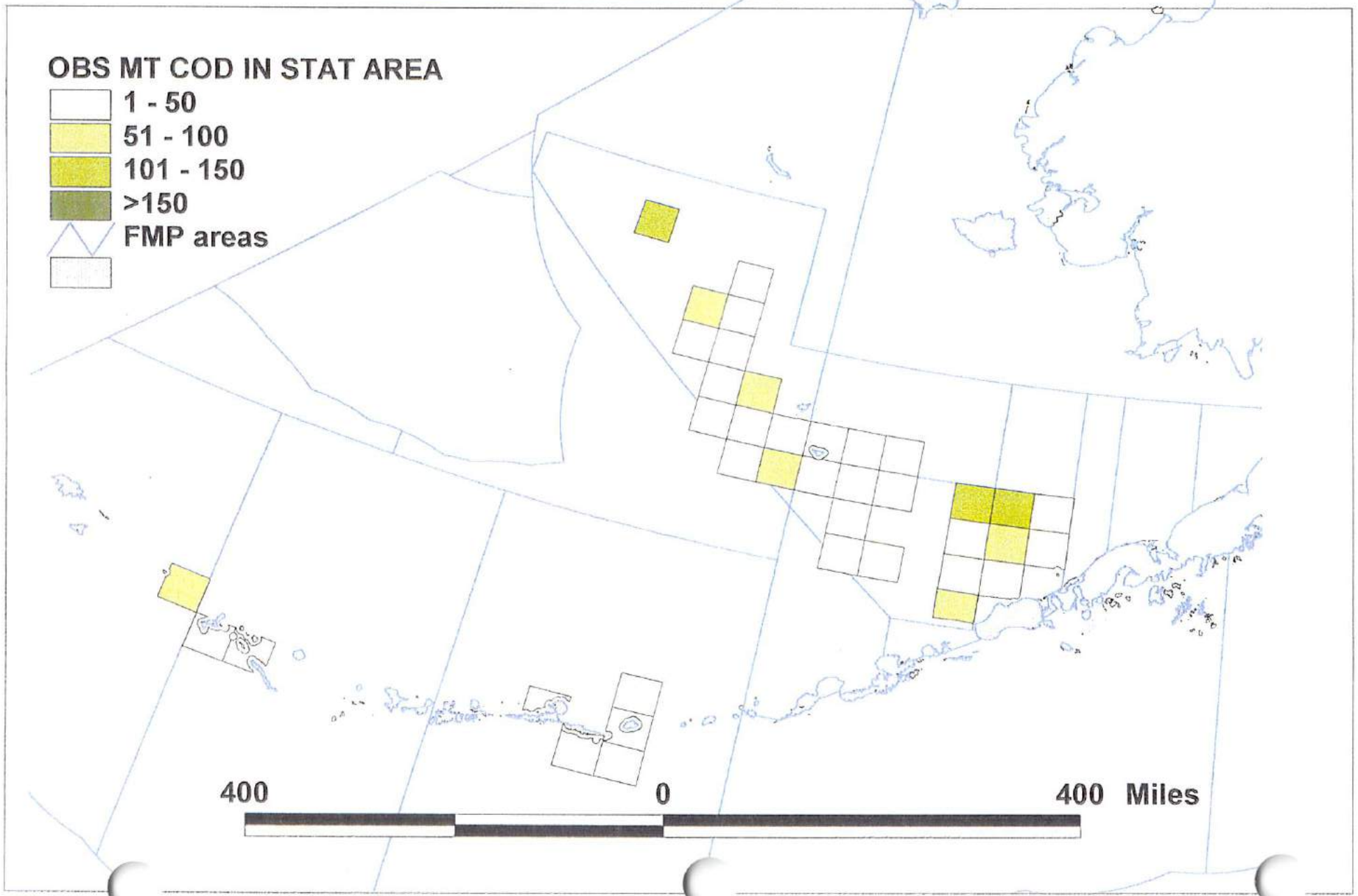
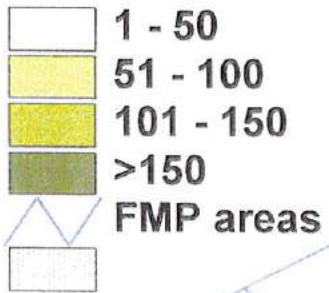
△ FMP areas
OBS COD MT IN STAT AREA



FIS 3/2001

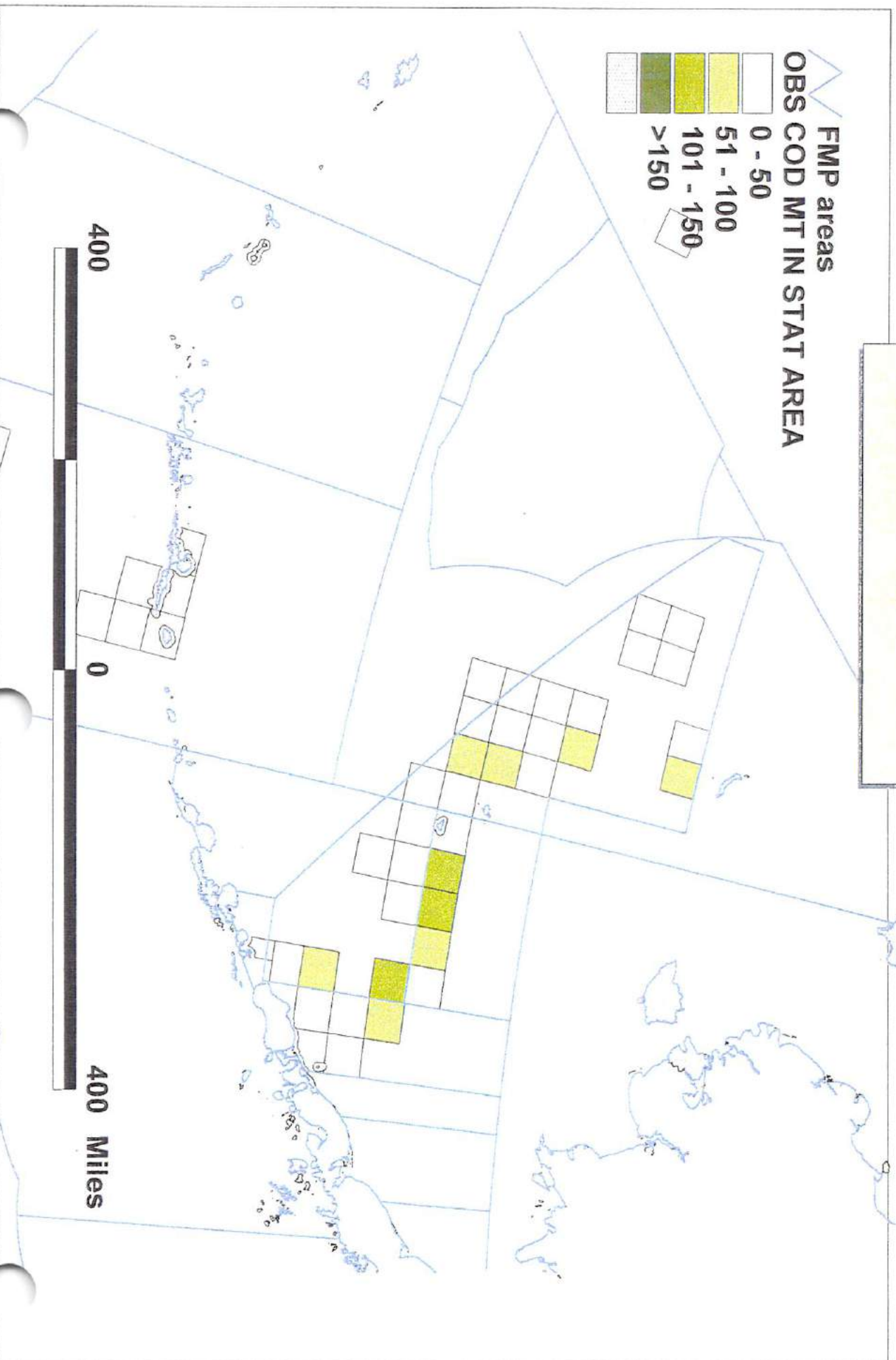
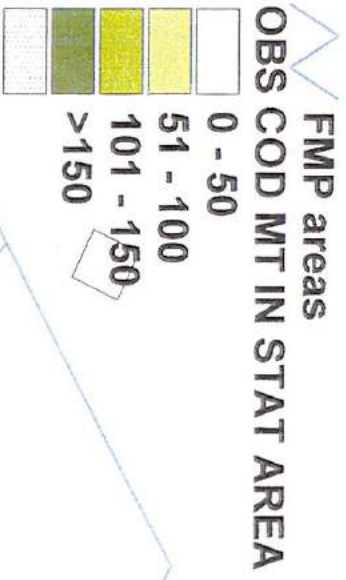
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OBSERVED MT: 1,252

OBS MT COD IN STAT AREA



FIS 3/2001

H&L COD CATCH 2000: WEEK 43
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OBSERVED MT: 1,252



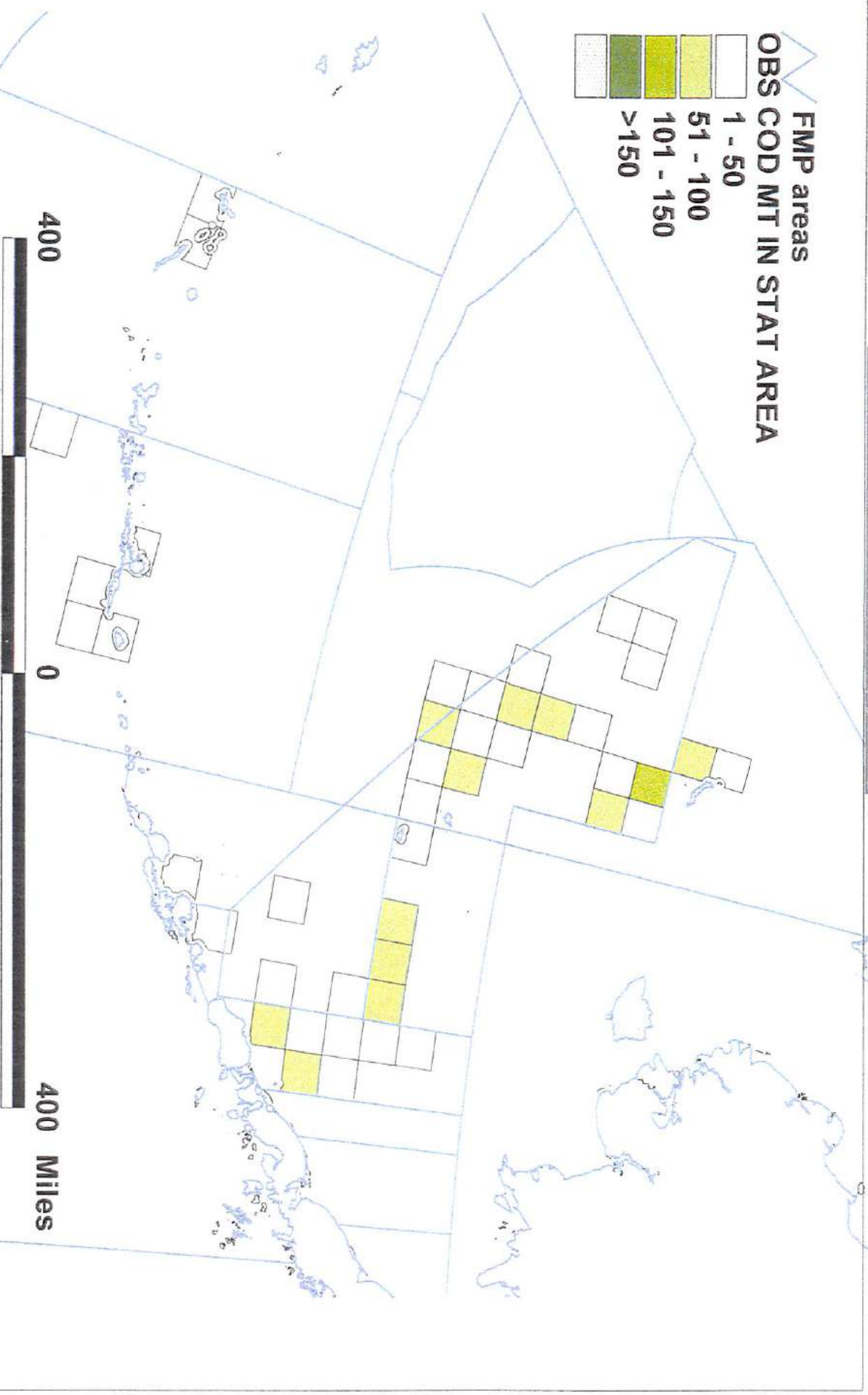
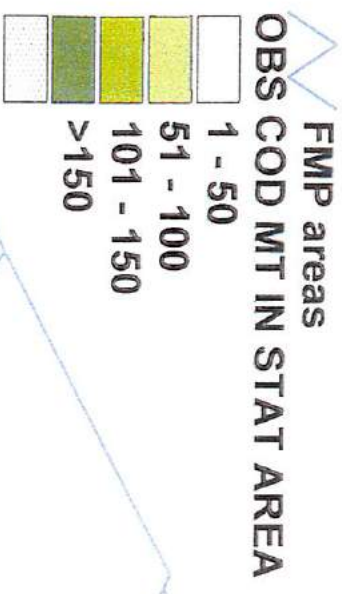
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400 Miles

FIS 3/2001

H&L COD CATCH 2000: WEEK 44
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OBSERVED MT: 1,303



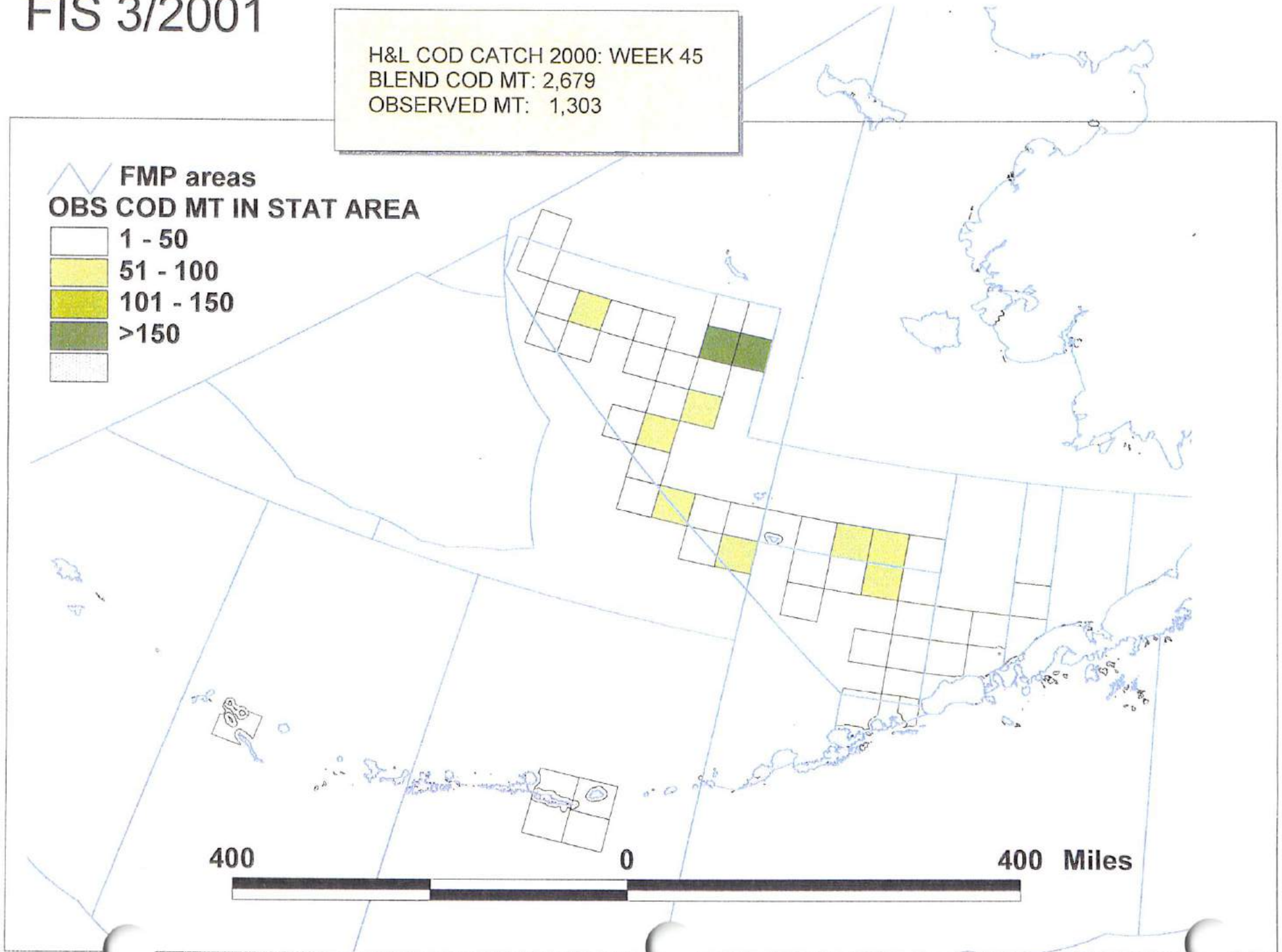
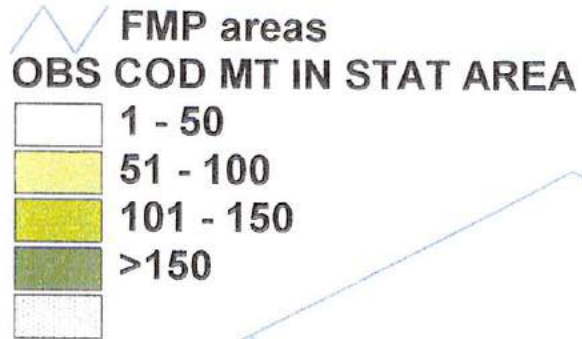
400

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400 Miles

FIS 3/2001

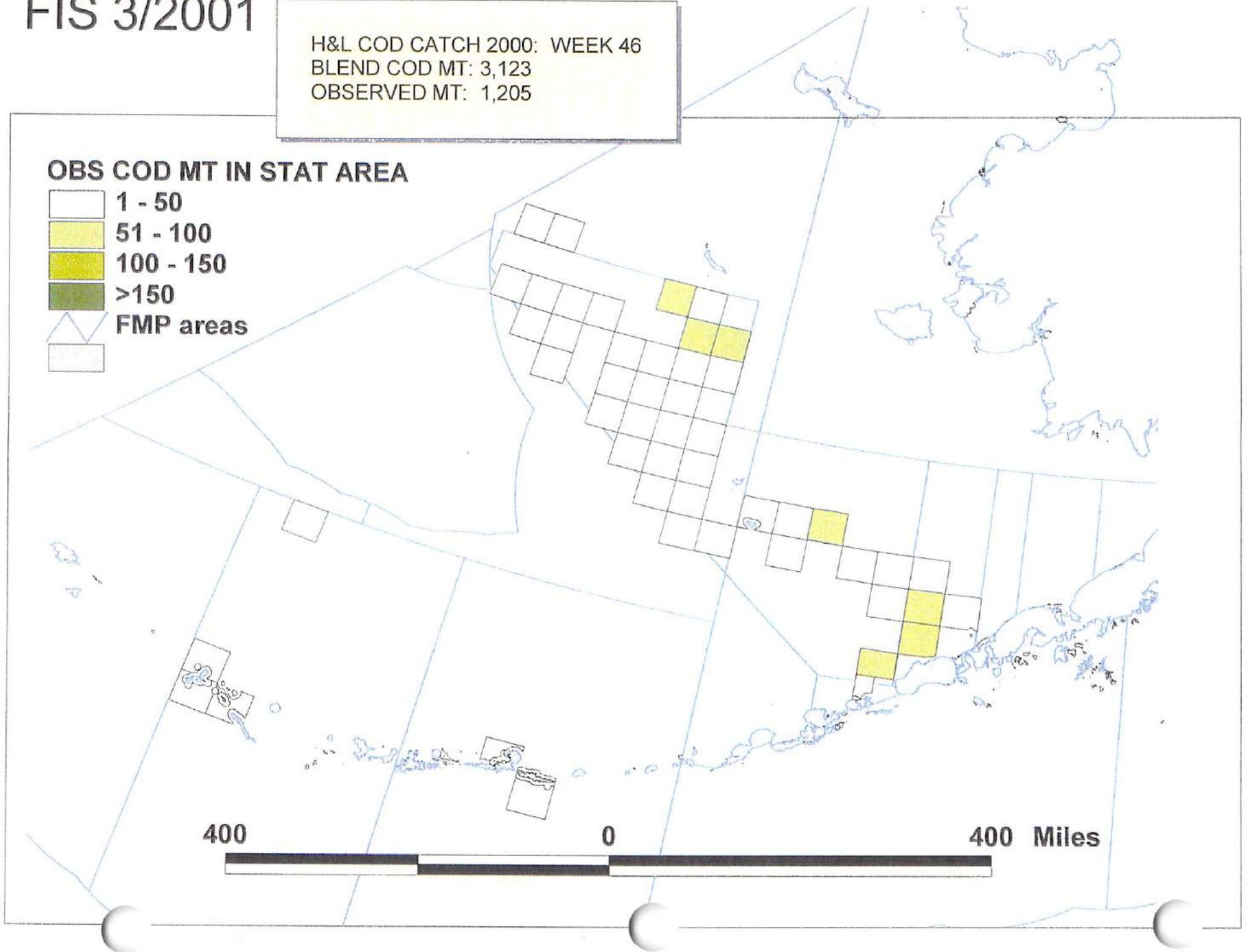
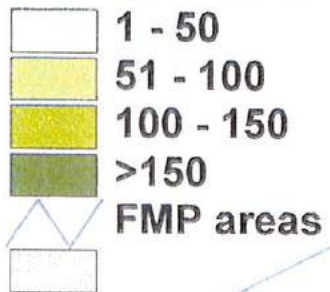
H&L COD CATCH 2000: WEEK 45
BLEND COD MT: 2,679
OBSERVED MT: 1,303



FIS 3/2001

H&L COD CATCH 2000: WEEK 46
BLEND COD MT: 3,123
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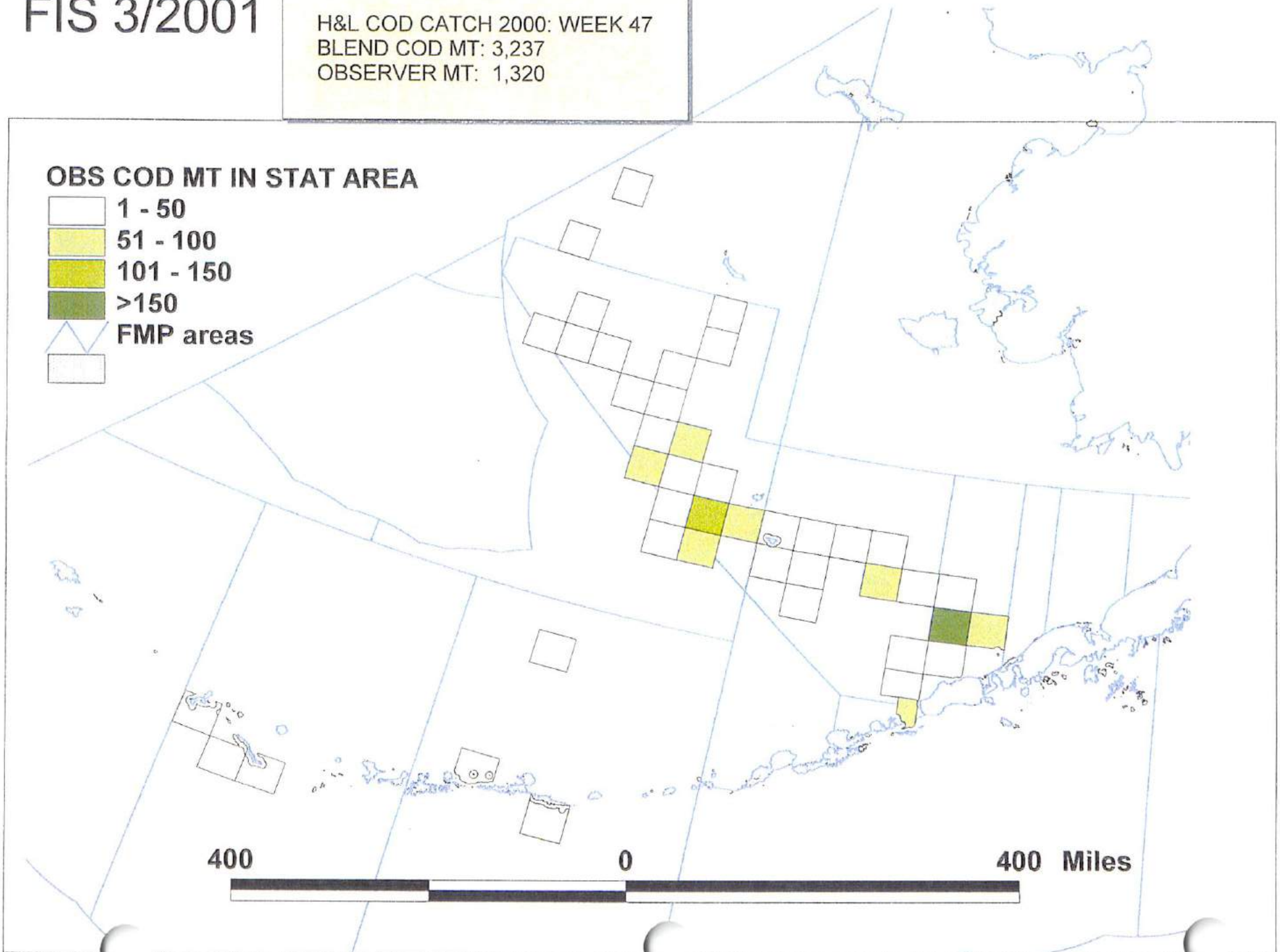
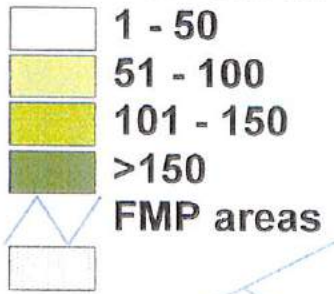
OBS COD MT IN STAT AREA



FIS 3/2001

H&L COD CATCH 2000: WEEK 47
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OBSERVER MT: 1,320

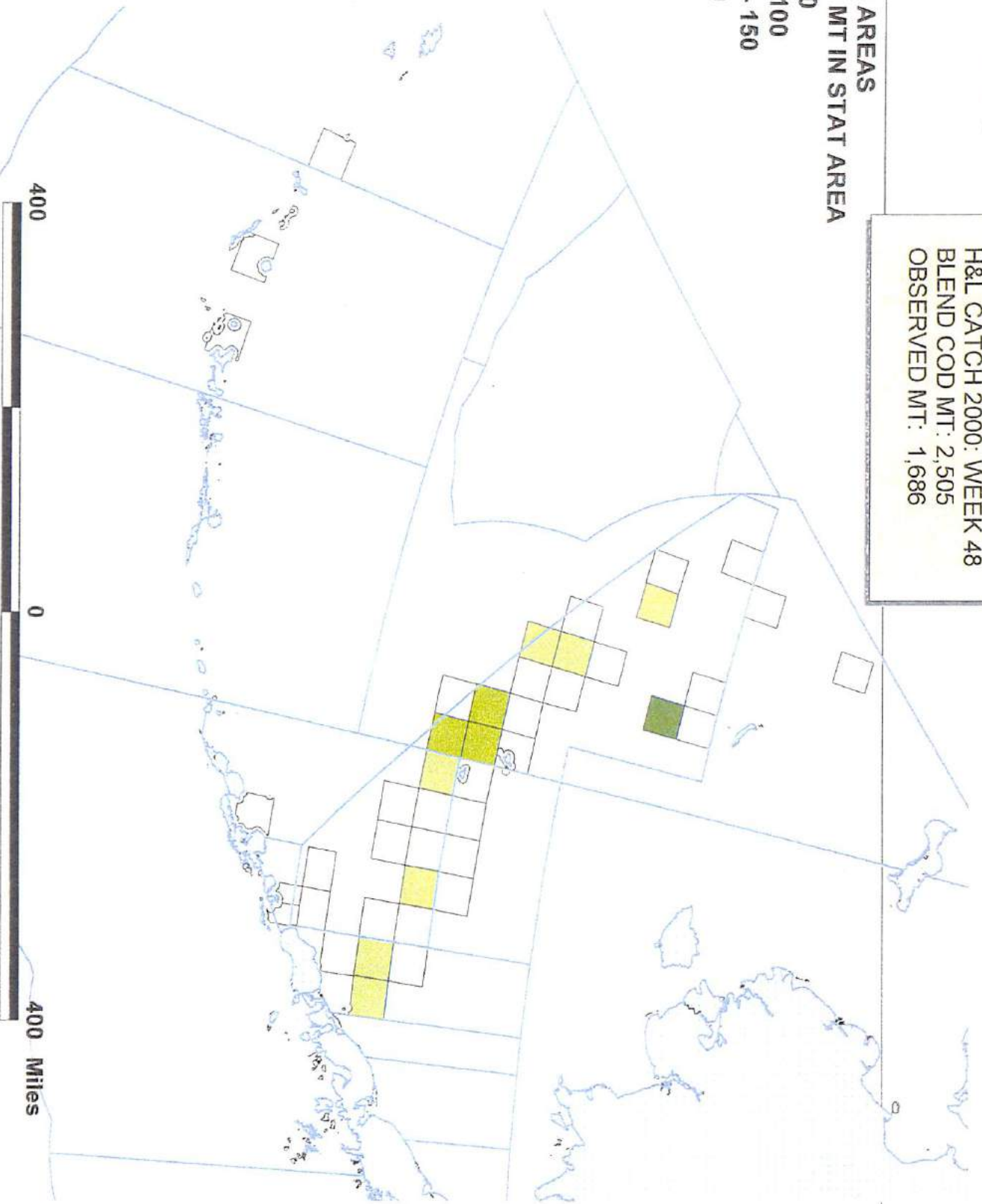
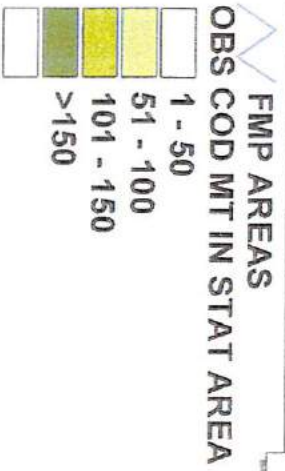
OBS COD MT IN STAT AREA



400 0 400 Miles

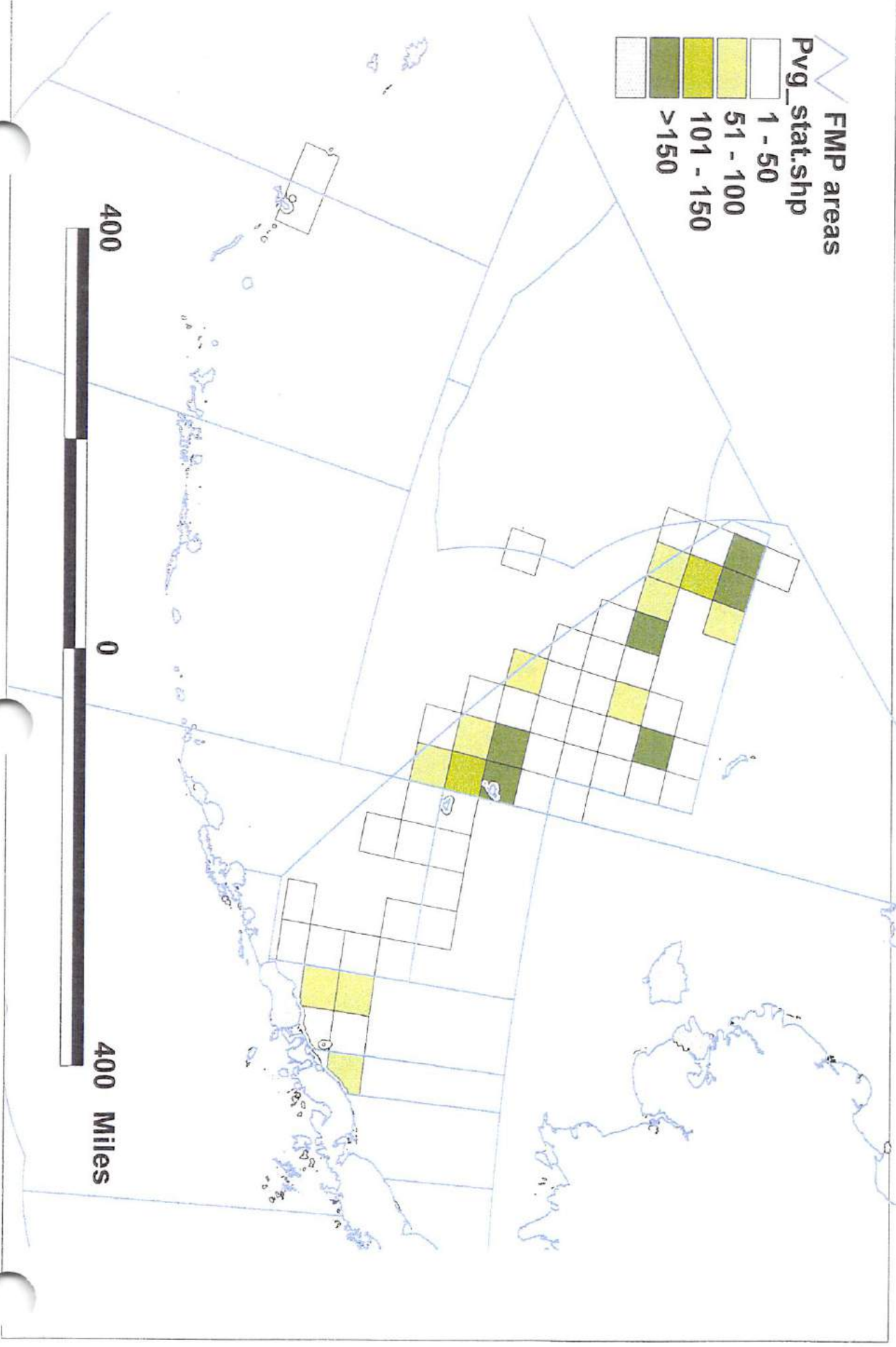
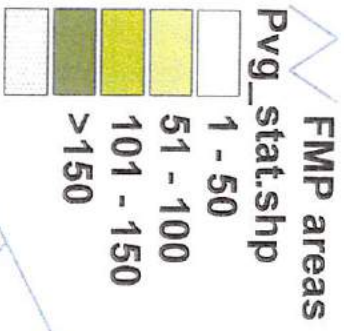
FIS 3/2001

H&L CATCH 2000: WEEK 48
BLEND COD MT: 2,505
OBSERVED MT: 1,686



FIS 3/2001

H&L COD CATCH 2000: DECEMBER
OBSERVED MT: 2,997



NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

RPA Committee Report

April 15, 2001

CHAIRMAN BENTON: Now on agenda item C-2, Steller sea lions, and we're going to get the report from the RPA Committee, and Mr. Cotter, you have the floor, sir.

MR. COTTER: Thank you. Good morning Mr. Chairman, council members. With me on my left is Cathy Coon, Council staff, Dave Witherell, Council staff, and Doug Demaster with National Marine Fisheries Service. We're going to give you a progress report on the RPA Committee work that's gone on in the past month and a half. We've got a lot to report to you and we're going to -- I think we've laid it out so that it flows well. I suspect there'll be several questions as we proceed and we'll do our best to answer them.

The Committee was appointed by the Council in February and the Committee members are shown on the screen here. Before I really go any further though I do want to make a couple of introductory comments. The task given to the Committee was pretty significant. We were asked to come back to the council at this meeting with recommendations for RPA's for the remainder of the year commencing with June 11. And then we are also tasked to come back to the Council by your June meeting with some recommended alternatives for RPA's commencing January 1st of 2002. The Committee met on four different occasions in the past month and a half and an enormous amount of work was involved. And there are some people who deserve special recognition for efforts well above

and beyond the call of duty. And those individuals in particular are Cathy Coon to my left, Kristen Mabry with Alaska Department of Fish and Game, Steve Lewis with National Marine Fisheries Service. You'll see the results of some of their work later on in our presentation, but suffice it to say that the Committee had some very significant and complex data requests and somehow these three individuals managed to find the time in a very short time period to assemble the data and put it into a manner in which we could access it easily. It was an extraordinary effort on their part and they really deserve a great deal of thanks. And not to provide short shrift to anybody, National Marine Fisheries Service and Alaska Department of Fish and Game coordinated very, very well and really went all out to help the Committee. The Committee members also had to put in a great deal of time which involved a lot of personal and corporate expense from their organizations. And so it was just a good effort overall.

Mr. Chairman, the Committee adopted a goal which is to develop an RPA that meets the mandates of the Endangered Species Act, Magnuson-Stevens Act, and other applicable laws while conserving marine biodiversity and sustaining the viability of the diverse fishing communities dependent upon Alaska fishery resources. And to accomplish that goal we had a series of objectives which included to remove jeopardy and adverse modification, develop a sound experimental design for monitoring,

minimize social and economic impacts, minimize bycatch of prohibited species and other groundfish, and promote safety at sea. And those goals and objectives were adopted unanimously by the Committee. In this screen you can see the meetings that we had and some of the data presentations that we received and the work we did. The next sheet provides you with a brief overview of the type of analysis that was undertaken for the Committee. And what we focused our attention on was reviewing new information or looking at old information reanalyzed to see whether or not there are any different interpretations that could be drawn. We had an excellent presentation on telemetry data and we're going to give you an abbreviated version of that presentation in just a moment. We developed or expanded the development of a relatively new tool which is GIS data. And I frankly, Mr. Chairman, think that the use of this type of data is going to become a foundation for fishery management decisions in the near future, and we're going to give you a little presentation on that in a moment as well, again abbreviated. We also had economic information that we looked at as well.

The -- this is where I think we'll shift to a discussion on telemetry data. And you see a summary slide up here that shows where the telemetry data shows that pups and juvenile and adult sea lions range. And before I go any further with that I'm going to pass the mic to Doug Demaster.

DR. DEMASTER: Okay. We're going to shift over to the presentation that Bob Small put together in cooperation with our staff at the Marine Mammal Lab. The next few figures are going to be this type of figure so I just want to make sure everyone understands the axis. This bottom axis is nautical miles and is distance from the nearest land mass. So it's how far away from land a Steller sea lion is going at sea presumably to forage. On this axis over here, this is the percent of the hits at sea that are certain distance from nearest land, so two miles, four miles. So these bars are the distance to sea, distance from the nearest land mass. These triangles over on this axis and all of these dotted lines are related to this Y axis, and that's cumulative. And I think when you're looking at these next four or five plots you'll find this cumulative axis is easier to interpret. For example, these triangles as you go across here are for the pups and it suggests for the summer Aleutian Island Bering Sea animals that were tagged, and there were only two animals tagged, 55 percent or so of those hits were inside two miles, and then you had to go outside to 50 miles to pick up an additional 30 percent and out to 100 miles to pick up all -- 100 percent of all the hits at sea. Next one. This shows you summer for the Gulf. You get a similar pattern in that the adults tend to spend most of their time at sea, at least most of the hits are in this two to four mile area. The cumulative distributions are relatively flat and

you have to get way offshore to pick up that last little bit. And the pups are using kind of the area from four out to 20 miles to some extent, but most of their activity is inside this two mile bin as well. Next hit. And this is the winter. Now you see quite a different pattern during the winter. During the winter it looks like all of the groups, again the sample sizes are small, but for pups, juveniles and adults you're picking up almost all of the hits at sea within the first two to four miles. This is the Aleutian Island Bering Sea winter and the next one is the Gulf of Alaska. A similar pattern, I think this again is a very small sample. This is adults right here, we only have three. But you can see a majority of the animals have hits inside four miles and then you finally pick up the last little bit quite a bit offshore.

UNIDENTIFIED SPEAKER: Doug? Doug, before you go on could you go back to that previous slide for just one second?

DR. DEMASTER: Gulf?

UNIDENTIFIED SPEAKER: No, that's fine. Okay, never mind, I can do it off this one. Is that showing me that the same animals, you're picking them up inside a -- inside, say in that four mile area, then the same animal sort of disappears and then shows up again further offshore, or is it some other kind of -- am I seeing something else here?

DR. DEMASTER: No, I think that's it. It's basically -- there's a -- these three animals, for example, have some number of

hits. And what that's saying is that 70 percent of those hits are inside two to three nautical miles and that you have to get way out here before you start picking up additional hits.

UNIDENTIFIED SPEAKER: From the same animal?

DR. DEMASTER: Yes. Those same three animals, they're pooled.....

UNIDENTIFIED SPEAKER: Right.

DR. DEMASTER:it's all hits.

UNIDENTIFIED SPEAKER: Same -- yeah, I mean there's not -- right, okay.

DR. DEMASTER: Correct.

UNIDENTIFIED SPEAKER: And it -- the -- what would explain that? Why wouldn't you see some with the same animal sort of more continuous? Across there.

DR. DEMASTER: Well, if, for example, the animal swam directly offshore and the satellite wasn't overhead or wasn't -- the animal was sur -- it's one animal probably, so he's doing a long movement and he happens to swim at a time when the satellite's not overhead so we didn't get those intermediate positions.

UNIDENTIFIED SPEAKER: And then sort of moved around for awhile and got pi.....

DR. DEMASTER: And then he stayed out there and got hits. Something like that.

CHAIRMAN BENTON: Dr. Fluharty.

DR. FLUHARTY: Mr. Chairman, just so I understand as well. When we see adults out 100 miles from land in the Gulf of Alaska does that mean they are truly offshore south of the -- and way out there?

DR. DEMASTER: Yes. And I think I've got a plot of one of those.

DR. FLUHARTY: What are they eating out there, do we have a clue?

DR. DEMASTER: Not from the satellite tags.

CHAIRMAN BENTON: Mr. Austin.

MR. AUSTIN: Doug, you're representing the composite animals, all animals are tagged. Is there a great variation.....

DR. DEMASTER: Yes.

MR. AUSTIN:in this?

DR. DEMASTER: Yes. Oftentimes an individual animal has quite a different behavior than other animals the same age and sex class, and it's just individual behavior.

Let's go on to the next. These are the data from southeast Alaska. Similar plots, and you can actually see, this is the summer. The same message in that most of the hits are inside two to four nautical miles and you have to get offshore some 16 miles in southeast. And the next plot is the -- is that the Gulf? Yeah, I'm sorry, actually it's very similar to the last one. Same

kind of thing, most of the hits within two to four miles during the summer. Next plot. This is winter. This -- these are the adults. Again, this is a pretty small sample, two adults. For the pups and juveniles most of the hits inside, this -- I think it's one animal that had some hits out here at 18 and then again at 50. Let me get the next plot. This is winter Gulf of Alaska. Again, most of the hits inside two to four, some hits all the way out until you get to 50 before you get 100 percent. Now the next plot. These are some of the individual tracks that I think people are most interested in. This is a four day foraging trip from an 11 month old male Steller sea lion off Kodiak. The animal moved out here. Now we're assuming that this is a direct line movement, obviously we just have positions from the satellite, we don't have all the surfacings. Stayed out here awhile, foraged, and I'll show you some of the depth profiles. This is -- I don't know if you can see the red line here, I know it's there so I can see it. The 20 mile critical habitat line is this red line right here. Next one. So this is the dive profile, so you're looking -- this is a 3D plot so you -- these purple lines are actually the depth and the yellow line is the same line you saw before, and here's that 20 mile distance again. The dista -- the depth of dive, these dives are about 113 meters, this particular point. Here's a diving to 150 meters. But this pattern of diving to the same depth over and over again is very indicative of an animal that's

foraging. The animal did some shallower feeding in this area, moved back, hit land, did some diving in here, and then took -- went back to Long Island where it was doing some diving in this area. If I can get the next plot. This is an animal in the Bering Sea. This is one of those animals that went way offshore. I'd love to know what it's doing Dave, but I -- I can't tell you what it's eating but I can tell you what it's dive profile looks like. Next slide. This is the -- that same animal, that same track. We didn't -- we don't always get dive data, it depends what the satellite -- if the satellites are available at the right time, but we do have dive data here. You can see the animal's diving -- oh, in this area, for example, to 113 meters to give you some scale. It clearly is staying in this area awhile and foraging. Thank you. Moving over to a different area, foraging, coming back. This certainly looks like foraging right here, these -- this might be more exploratory, looking for forage, and then comes back to Seguan. So this is a long trip, this is an 11 day trip as I recall.

UNIDENTIFIED SPEAKER: How far out?

UNIDENTIFIED SPEAKER: Terrific question.

DR. DEMASTER: Can we go back one? You'll get some scale. I think this is on the order of 60 miles. This is the 20 mile bins right here, so 60 miles ish. Yeah.

UNIDENTIFIED SPEAKER: Yeah, Doug, I was wondering if -- so it says out there greater than 3,000 meters, that's out at the depth that he was foraging, that the sea lion.....

DR. DEMASTER: That's the bottom depth.

UNIDENTIFIED SPEAKER: That's the bottom depth.

DR. DEMASTER: Yeah.

UNIDENTIFIED SPEAKER: So he's foraging in a depth that's -- I mean he's not going to the bottom, he's only going -- and.....

DR. DEMASTER: The maximum depth here is 252.

UNIDENTIFIED SPEAKER: Oh, I see that. Okay. All right, thanks.

CHAIRMAN BENTON: Samuelsen.

MR. SAMUELSEN: Thank you Doug. Is that a -- in your studies is it primarily males that are going way out there or males eating?

DR. DEMASTER: It's hard to characterize. We have been tagging nine to 11 month old animals in that kind of March window and we tag whatever we get. So we've tagged both males and females. Let me get the summary here for you. I think I have it broken down. Hang on just.....

MR. SAMUELSEN: While you're looking for your paper, the reason why I asked that question is because where I'm from in Bristol Bay the females usually -- with pups usually come up along the coastline to Togiak and the herring fishery. The exit of

herring from Togiak is down through the peninsula out to the Pribilofs, the winter area.

DR. DEMASTER: Huh-hum (interrogative).

MR. SAMUELSEN: And then they come back in over south -- or west of Hagemeister and enter the Togiak herring grounds and usually it's dominated by males on the offshore. And I was just seeing if your analysis kind of tracks that way.

DR. DEMASTER: Yeah. For this age class we think the males and females are probably doing similar kind of things, although there's a lot of variability between individuals. You're right, once they get up to juveniles, and certainly the adult size animals, they have -- the males and females have different foraging patterns and go to different areas. We initially concentrated -- this is the NMFS data. We've tagged 21 pups, seven juveniles, and 14 adults that we've got data from. We've tagged more than that but we've got data from that number. We've been focusing on this nine month, 11 month old pups because they're the ones we think are the ones most affected by not being able to find food over a short period of time. So -- and juveniles are very difficult to capture, so we've kind of been doing what's easy first. So -- but that's why I've tended to show you these two pup tracks. Let me get the next one.

CHAIRMAN BENTON: Hang on just one second.

DR. DEMASTER: Yep.

CHAIRMAN BENTON: Mr. Penney?

MR. PENNEY: Mr. Chairman, do we have any data that will substantiate that a tagged animal behaves the same as a non-tagged animal? In other words, could anybody say the tagged animal is behaving differently, do we have anything to substantiate that?

DR. DEMASTER: There -- not for Steller sea lions, but there's been considerable work done in captivity on say the effects of drag of these tags on animals, whether or not they have to swim a lot harder. And those studies suggest that these tags are small enough that it's not a problem.

UNIDENTIFIED SPEAKER: Doug, before you go off this one too. Just noticing those depths there, they're very similar to the ones you were seeing in the Gulf. Is that.....

DR. DEMASTER: Yes.

UNIDENTIFIED SPEAKER: Even though that's over -- I mean that's -- clearly the Gulf was going close to the bottom in that one area it looked like and here it's mid-water at best, right?

DR. DEMASTER: Correct. Yeah, I.....

UNIDENTIFIED SPEAKER: There anything we -- any inference you can draw from that at all, or is it just.....

DR. DEMASTER: I'd ju.....

UNIDENTIFIED SPEAKER:that's the way they do things.

DR. DEMASTER: That's where the fish are, right there. This spot right here

UNIDENTIFIED SPEAKER: (Indiscernible), how deep is it?

DR. DEMASTER: The animals probably -- well, again, the maximum depth of these animals depends on age and the size basically. Two hundred and fifty to 400 meters is pretty deep for these guys depending on their age.

UNIDENTIFIED SPEAKER: Okay, thank you.

DR. DEMASTER: Next one. This is one of those plots offshore, this is southeast, this is an animal, that ADF and G tagged. The animal was tagged in January here. It moved way offshore, we're not quite sure what it was doing here, moved back, moved over to Middleton, spent some time, and then ended up going back. This was an adult female. I think Don Calkins (?) tagged this animal, he was trying to get a male and female -- I mean a pup and a female tagged together and this -- I think they were only able to get the female in this track. But, anyway, it gives you some idea of how far offshore the animals can go, but then they seem to come back. Next one. I've got two plots in here to show you that we did work -- NMFS and ADFG cooperatively put 23 tags on this February and March. These are satellite tags that are currently going beep, beep, beep, and we get a sense of where the animal is. We're also getting depth of dive. The yellow dots are where the animals were actually tagged, so we did the tagging up in here. And then the different animals are showing up in different area -- in Long Island we tagged. So some of these

animals have already moved down here to Cape Ugat, Latax Rocks, Sea Otter. So we are getting some movement of animals but they're not moving all that far. Next one. We did -- we tagged I believe 10 animals out in this area, Unimak Pass area. They were tagged over here, and you can see we're starting to get movement -- animals moved over to Bird, this area, reef by it. So, again, the movements haven't been too wild and dramatic, but I think this slide -- well, I think these animals were tagged end of February, first part of March, and I think the an -- these data are from -- no, end of February, early March, and these data are from the end of March, so it only represents 30 days of movements. Is that the last one? Thank you.

MR. COTTER: So, Mr. Chairman, the Committee paid a great deal of attention to the telemetry data. And as you may be aware, in the past the data available on location of sea lions is POP data, platform of opportunity data, and, you know, without leading Doug I think it would probably be good to -- for him to explain the difference between the two types of data and what level of reliance may be placed on each.

DR. DEMASTER: Just briefly, if you remember from the Biological Opinion, the POP data, which are the platform of opportunity, they're data that are made from -- or obtained by sightings at sea on research boats, observers on fish boats, Coast Guard boats, and we track those and we plotted them and it's in

the Biological Opinion. Those data aren't standardized by effort, they tend to reflect where ships go. That is they tend to reflect where the fishing fleet is because most of the data from POP are observers at sea on fish boats. So it's very hard to get a sense of where the animals are actually going in -- relative to effort, searching effort, what habitat is important to them or not. For that reason I think most of us who are working with both the satellite data and the POP data feel that the satellite data, albeit the sample sizes are small, are much more representative of what areas are really important to Steller sea lions.

MR. COTTER: Mr. Chairman, there have been some questions raised regarding the extent to which we should rely on telemetry data and -- or how to interpret the telemetry data and what problems are associated with it. And a white paper is being prepared jointly by ADF&G and NMFS to address those issues and we should have that in the relatively near future. And this is obviously a very important tool, you know, with -- as the summer progresses and the year progresses we're going to have more and more and more of this type of information.

CHAIRMAN BENTON: Dr. Fluharty.

DR. FLUHARTY: Mr. Chairman, on the telemetry data, I -- it was -- once you get in close to shore, looking at those tracks it wasn't clear whether they were feeding in there. I mean are the movements offshore for feeding and when they're in shore they

might be resting or things like that? I'm trying to understand part of what Mr. Cotter was saying about how you interpret these. Is that the kind of question that you'll be able to answer in there sort of?

DR. DEMASTER: Yeah. The -- what's nice about these new tags is that we get both the position at sea and dive behavior. In the past we've had to have -- we had tags that separately did dive behavior from animals that -- from tags that gave us position at sea. From those tracks you can see that where the animals are diving to a constant depth over and over again, we infer that to be foraging behavior. And we're seeing that both inshore and offshore. On the other hand, those cumulative plots, to some extent animals have -- when they leave the beach they have to go through the near shore area to get to the offshore area. So you would expect more hits near shore than -- you know, than a uniform or random distribution. So it is a difficult analysis but I think it's fair to say that animals are feeding both near shore and offshore and you just have to look at the individual tracks to try and make sense of it.

MR. COTTER: So, Mr. Chairman, the -- we don't have any slides on what I'm about to talk about. But we also received a lot of presentations about SCAT analysis. And -- you know, Kate Wynne from Kodiak gave an excellent presentation. And the problem with scat analysis is that it -- it's quite fascinating because

they aren't capable of identifying exactly what species are in the feces.

UNIDENTIFIED SPEAKER: Species in the feces.

MR. COTTER: But it doesn't really tell you how much of the different species the animal is eating, it just tells you what the percentage is in there so you don't get the true total of consumption. But as we go down the road and we get better at the scat analysis, and there are studies that are ongoing now on stomach analysis. There's a new paper that Committee didn't have access to but we obtained it just the other day and we've distributed it, from St. Paul that talks about stomach analysis. And as we get more data on stomach analysis and scat analysis and telemetry data we're really going to -- we're really building a database that is going to give us a good idea of what is going on with these animals, what they're eating, where they're going, what they rely upon. So, Mr. Chairman, the next item up here is a map of GIS. And -- go ahead Cathy. So what we did is we asked staff if they would be able to accumulate a huge amount of information that we could then overlay on top of each other. And the idea was that we would be able to ultimately take a look at where sea lions are, where they go, what type of resource is located in the area, what type of fishing activity occurs in the area, and be able to drill down and see, for instance, whether in a statistical area, whether a part of that area is important for fishing but not

important for sea lions in terms of their movement and just get a better idea of interactions overall. So we're just going to give you a very brief demonstration of how this tool can be utilized. So here you have the State of Alaska, or the North Pacific. So, Cathy, why don't you.....

UNIDENTIFIED SPEAKER: Take it away.

MR. COTTER: Yeah. What are you going to add Cathy?

MS. COON: Mr. Chairman and members of the Council, I just wanted to point out that the data that we provided for the RPA Committee came numerically and then we added it into this GIS program by geographic position. And this is just a quick example of some of the stuff that we did. Each different layer of data comes up separately. And so, for example, we can plot the bathymetry on top of Alaska. You can add the rookeries and haulouts. You can track specific areas. You know, if you want to know where a specific line is, you can see where the 178 line is. We also added some of the fishery effort data. And for an example I'm going to show the pollock trawl distribution. And this is vessels -- they're the 30 percent observed trawl vessels and we summarized the amount of fish delivered by ADF&G stat area. Some of the other information that we were able to get from National Marine Fisheries Service is the pup counts. And, you know, here, since it's so big it's really hard to see, but I just kind of wanted to give you a flavor of some of the information we were

using to print out the graphics. And the GIS capability is more than just giving you a nice map of Alaska, it really can do some complex overlays and, you know, seeing -- visually seeing where things are. This is some of the platform of opportunity summer distribution stuff. So that's -- and you have the capabilities to zoom in, zoom out, add names, and we really put together a lot of information on this. I think that's about it. Oh, also in your supplemental, C-2 supplemental we handed out, some color prints of the pollock and cod fishery effort distribution in this format, and I think you have that in your notebooks. If there's any questions about this I'd be happy to entertain them.

UNIDENTIFIED SPEAKER: Pretty impressive.

MR. COTTER: Mr. Chairman, I think we have the capability to produce probably about 10,000 slides from the data that has been accumulated. So, Mr. Chairman, continuing then. As the Committee went about its work we received some cheat sheets so to speak from NOAA General Counsel on the ESA and the Magnuson-Stevens Act, items that we needed to pay particular attention to. You see the ESA stuff up here. I don't think I need to go through it. The next slide is -- refers to the Magnuson Act and the national standards. And then the next page is the RPA criteria. And this is important, which is not to say that the others aren't. But the RPA criteria is that at least 50 percent of critical habitat should be closed for fishing for pollock, cod, and mackerel.

Closure should meet at least -- should protect at least 50 percent of the non-pups and 75 percent of the pups, measure should avoid jeopardy, and a monitoring program must be included in 2000 and beyond. So this is the map of the BiOp RPA, the red is the closed areas, and the green is what we call the restricted areas. In the past they've been called open areas but they're really restricted.

So that takes us to our Committee recommendations. And we were asked.....

(Change to Tape 61)

MR. COTTER:but there were two members of the Committee, Gerry Leape and Dave Cline, who were unable to support the RPA Committee's recommendations. Otherwise the remainder of the Committee is able to support the recommendations. And we'll get into this a little bit more later, but there is a -- somewhat of a caveat there, at least with one member of the committee, that there has been some concern that the RPA Committee's recommendations, particularly in areas seven and eight, which you'll see in a few minutes, might be sufficient to generate re-consultation, initiation of a re-consultation. And that is not something that we want to have happen and so that individual at least was going to go back and look at the package as a whole to determine whether if you look at the package as a whole, whether that would result in not necessarily needing to have re-consultation.

So there are some global positions with the Committee, opening dates in the Gulf, change cod to September 1. And the reason for that is there's a significant salmon bycatch associated or would be associated with the cod fishery, trawl fishery, during the summer. Should it occur the cod are in better shape in the fall. Bering Sea, change cod longline opening date to August 15th. That was the consensus by the Committee, I noted the AP recommended -- I think they recommended modifying that to September 1. No, that was for pot in the Aleutians. So August 15 for cod long line, pots September 1, and pollock June 11th. In the Aleutian Islands change the cod long line to August 15th, mackerel to September 1st. The Committee also unanimously is recommending to the State of Alaska that it begin to develop its own plan for dealing with Steller sea lion issues inside State waters.

So that, Mr. Chairman, we'll move to our recommendations. This particular chart you have in front of you and this'll be available on a web site in the near future. So what we're going to do, Mr. Chairman -- if you can go back to that slide. The -- I think it's important to realize how to look at this because we're going to refer to these as areas and the areas do not necessarily coincide with the TAC areas or other stat areas. And the best way to view an area is to look at it angularly from the -- moving from

the southeast to the northwest. They all seem to head in that direction generally.

So in area one, which is Prince William Sound, the sea lion abundance trend is negative 10 percent there. Under the RPA -- under the BiOp RPA this area is treated as green which is open or restricted. The Committee's recommendation is to close the area to fishing for pollock, cod and mackerel with all gear types within 20 miles of listed rookeries and haulouts. Our rationale is that sea lions in this area are declining at a faster pace than any other region. The summer fisheries in this area target salmon, the cod fisheries are minimal and probably are a result of IFQ.

In area two, which is the North Gulf Coast, the abundance trend is negative, minus seven percent per year. The existing BiOp RPA has this as a closed area. The recommendation from the Committee is to prohibit fishing for pollock, cod and mackerel with all gear types in area 631 and within 20 miles of listed rookeries and haulouts. Except in the case of Chiniak and Long Island, they would be closed outside of 10 miles during the time period October 1 through December 31, and that would allow for the late fall pollock fishery to occur in that area. There is an exception that vessels less than 60 feet fishing with fixed gear would be allowed to fish outside of three miles. Our rationale, Mr. Chairman, is that the sea lion decline in this region is also

high so large closures were adopted. The telemetry data that we've seen shows that most sea lions are primarily located between three and 10 miles. There is an experiment that's going to take place in Chiniak and Barnabus this fall and we wanted to protect that experiment and make sure that it moves forward. Safety is a very major issue in this area in the fall. Fisheries, and if the closures around Chiniak and Long Island were left at 20 miles during the time period October 1 through December 31, that would pose a significant hazard to life or individuals fishing -- forced to fish outside that area.

Mr. Chairman, before I go on to area three I think I need to mention that National Marine Fisheries Service, as you know, has implemented an emergency rule that allows for -- in the Bering Sea for jigging and pot fishing by vessels less than 60 feet to occur inside three miles and in the Gulf of Alaska that applies to jig vessels inside three miles. The -- none of the Committee's recommendations modify or propose to modify that emergency rule. So that would still be in effect with our recommendations.

In area three, Kodiak, the abundance trend is negative four percent per year. The existing RPA BiOp treats this as a green area, open or restricted. The recommendation from the Committee is no change from the BiOp. Our rationale is that these are critically important areas for small vessels using trawl gear for pollock and cod. The scat collections in the area during the

fall of 1999 showed a high frequency of occurrence of a variety of species, notably sandlance, salmon and arrowtooth flounder.

Area four, Chignik, the decline is six percent in this area. The existing RPA rule is red, closed. The recommendation from the Committee is no change, maintain the RPA that prohibits fishing for pollock, cod and mackerel by all gear types. Rationale, again, is that the decline in this area is higher than average, but also there's little or no fishing that occurs outside of three miles in this area anyway.

Area five and six, sea lion abundance trend is about a negative one percent. Existing RPA rule is -- for area five is open or restricted, area six is closed. The recommendation from the Committee is to prohibit fishing for pollock, cod and mackerel by all gear types within 10 miles, except for vessels less than 60 feet fishing with fixed gear. They would be allowed to fish from three to 10. The rationale is that the sea lion population in this area is relatively stable. Again, the telemetry data shows that most of the movement is inside of 10 miles. The sea lion prey in this area from the Sinclair scat analysis shows that it's primarily herring, sandlance, cod and Irish lords.

Area 10 and 11 which is south of Unalaska, the trend in this area is two percent decline in 10 and three percent decline in 11. This is a red area under the existing RPA. The recommendation of the Committee is to leave it as a red or closed area inside of 20

miles. Our rationale is that this is not a critical fishing area for cod and pollock, although it has been an important area at times in the past.

Moving to area seven, Unimak, the abundance trend is positive, it's three percent. The existing RPA is -- this is a green area, which means it's restricted. Our recommendation is to prohibit fishing for pollock, cod and mackerel by all gear types within 10 miles. Otherwise all of area seven remains open with no catch limits. The rationale is that the sea lion population is increasing in this area. Again, reliance upon telemetry data and the scat analysis that we've seen shows that the animals have a diverse diet.

In area eight, the abundance trend here is also positive, increasing at seven percent per year. The existing RPA closes this area to all fishing. Our recommendation is essentially the same as area seven, no fishing inside of 10 miles of all listed rookeries and haulouts, otherwise all of area eight remains open without critical habitat limits for pollock. Except that the four Pribilof haulouts would remain open outside of three miles and the five northern haulouts would be closed out to 20 nautical miles. There would be an exception for pot vessels and vessels less than 60 feet fishing with fixed gear, they'd be allowed to fish in the area three to 20 miles. The rationale here is the sea lion population is increasing at about the maximum recovery rate. In

terms of the Pribilofs, there have been no sea lions counted on those four haulouts since 1961. In the northern haulouts those are not important fishing areas. Mr. Chairman, we will come back to areas seven and eight more extensively in a few minutes.

Well, let's go all the way through and then come back to this slide. Area nine, Bogoslof, the decline is four percent in this area. It's closed under the BiOp. The Committee's recommendation is to leave the area closed. It's notable, Bogoslof has been closed to pollock fishing for the last 10 years, although there is some mackerel and cod fishing. I think the mackerel fishing is relatively insignificant in that area, isn't it?

So that takes us to the Aleutians. The Aleutians got a little complicated for us. And I'll try and make it simple. The abundance trends are negative two percent in area 12, negative seven percent in area 13. Area 12 under the RPA is green, restricted fishing, area 13 is red. Our recommendation is to maintain the closure for pollock fishing in the Aleutian Islands and in addition to that maintain the current closed areas at 10 miles and 20 miles as -- I'm just going to read it because I'm confused all of a sudden. In addition to the pollock fishery closure in current closed areas -- pardon? The 20 mile closures would be implemented for pollock, cod and mackerel in the two rookeries, Buldir and Agligadak. And those areas are experiencing sea lion declines I think in excess of 10 percent per year, so we

wanted to add protection for those two rookeries. In terms of Atka mackerel, we closed Atka mackerel east of 178 degrees west inside critical habitat and west of 178 degrees west Atka mackerel fishing would be allowed per the NMFS table 21. The existing limitations on catch inside critical habitat would remain in effect for Atka mackerel. For cod we did in essence the opposite. Cod would be open east of 178 degrees west. For fixed gear, fixed gear vessels could fish inside critical habitat in both areas 12 and 13 and Seagum would continue to be closed to all fishing. I might also note, Mr. Chairman, that the Atka mackerel fleet proposed to the Committee the establishment of a platoon concept where there's approximately eight vessels fishing in that fleet now and they would be divided into two platoons of four vessels each and through some sort of flipping the coin process platoon one would be allowed to fish in one area and platoon two would mo -- would be allowed to fish in the other area. And the reason that that recommendation was made and the reason I bring it to your attention is that was their effort to try and manage their fleet so that they can distribute their effort and slow down and be able to partake of some of the benefits that we've seen in the AFA coop side. And, of course, that is important to the discussion that we have on areas seven and eight. But the fact that the Atka mackerel folks proposed that I think is reflective of the value that the industry views in that type of approach in

terms of being able to manage their fisheries. Our rationale for area 12 and 13 is that there is steep declines of sea lions at the two rookeries that I mentioned. The other near shore areas are protected by current closures. And the telemetry data, again, suggests that the major activity is almost always within 10 miles. The division of the Aleutian Islands for cod -- between cod and mackerel disburses the fleet. And in terms of the fixed gear fleet, that fleet is largely disbursed anyway.

UNIDENTIFIED SPEAKER: Larry?

MR. COTTER: Yes sir.

CHAIRMAN BENTON: Is this a good place to break or do you want to go on for a little bit and.....

MR. COTTER: You mean take a break?

CHAIRMAN BENTON: Take a break at some point here, yeah. Let me know what you want to do.

MR. COTTER: Let me go just a little further, okay?

CHAIRMAN BENTON: All right. By the way, on the platoon concept, I -- seeing as how Clem Tillion sort of put his foot stamp -- foot print down in part of that area I just thought for a minute you were going to assign him to be the marshal general for the platoons to say who gets to go where. He always wanted to have his own army you know.

MR. COTTER: Well, I -- if I know Clem he has already given himself that assignment.

UNIDENTIFIED SPEAKER: Point well taken.

MR. COTTER: Okay, so I'm going to go through this slide and then maybe we can break and then when we come back I think we focus our attention on seven and eight for a few minutes.

UNIDENTIFIED SPEAKER: Sounds good.

MR. COTTER: Okay, Mr. Chairman, on this slide, this shows - compares the levels of RPA protection under the criteria. You notice -- remember the criteria was at least 50 percent of critical habitat needed to be closed, under the BiOp 66 percent was closed, the Committee's recommendation results in 57 percent closed. So the Committee's recommendation has nine percent less critical habitat closed than the BiOp. On the other hand, the criteria says that we have to protect at least 50 percent of the pups. The BiOp protects 56 percent of the pups, the Committee's recommendation protects 80 percent of the non-pups. The criteria says that at least 75 percent of the pups have to be protected, in the BiOp the number is 74 percent, and under the Committee recommendation the number is 80 percent. So, Mr. Chairman, this is probably a good place for us to take a break.

CHAIRMAN BENTON: Okay. Let's take a break, come back in -- no more than 10 minutes. And we will keep moving. The other thing is that -- how much longer do you think you've got because I know we're going to get into questions? Larry?

MR. COTTER: Probably 10, 15 minutes.

CHAIRMAN BENTON: Okay, fine enough.

(Off record)

CHAIRMAN BENTON: Back on item C-2, Steller sea lions, RPA Committee report. Mr. Cotter?

MR. COTTER: Yes Mr. Chairman. Before we go back to the slides, a couple other things real quick. One of the things the Committee needs to look at is experimental design. And what we're doing is we're appointing a sub-committee, so to speak, that will consist of scientists to review and develop different components of an experimental design. And I received a telephone call from Gordon Kruse with the State's sea lion restoration team suggesting that this be a coordinated effort. So we're working with both the Department of Fish and Game and National Marine Fisheries Services and Washington State Fisheries as well to put together that committee and that should come together next week.

At one point in the Committee there was a question raised regarding all of the research activity that's going on and whether or not that is being well coordinated. At that time I voiced an opinion that I did not take back to the Committee because I forgot to do so, so the recommendation you're going to hear from me now is my recommendation but I suspect the Committee would concur with that. I think that there is a huge amount of research going on now, the President's budget contains another \$40 million dollars for Steller sea lions next year, there's going to be more and more

research. I think the possibility or the probability of all of this research not being coordinated properly is a great probability, and my recommendation would be that an individual be hired by the Council to serve as research coordinator and that all of the Steller sea lion research activity would need to be coordinated through this individual to make sure that either there are no redundancies or where there are redundancies they are worked in a way that allows the data to be comparable, and just to get a grip on the entire effort. I did mention this to Dr. Hogarth the other day and he seemed supportive of it as well.

The last traditional item also did not get vetted through the Committee, I didn't realize that we had this problem until late last week. In terms of CDQ fishing, there are no directed fishing definitions for CDQ's. So presumably the RPA recommendations are going to apply to CDQ as well as non-CDQ. So I think that a line needs to be added to the RPA Committee recommendations, or whatever you adopt, that says in essence that for the remainder of this year when CDQ fishing occurs in an area in which RPA's apply the CDQ shall be subject to the same directed fishing definition as applies to the non-CDQ fisheries. So in that manner it'll be possible to appropriately manage CDQ in those RPA areas.

So with that, Mr. Chairman, back to area seven and eight. The current RPA places limitations on the amount of catch that can be taken in area seven and eight, actually area.....

UNIDENTIFIED SPEAKER: One of them's closed, isn't it?

UNIDENTIFIED SPEAKER: Nine.

MR. COTTER: Yeah, nine is closed. The recommendation from the Committee does not contain a restriction on the amount of pollock harvest that can be taken in those areas. The BiOp RPA also establishes two seasons in area seven and eight. The RPA Committee recommendation does not have two seasons. This has generated some concern within National Marine Fisheries Service that some sort of consultation may result if this recommendation is adopted. There are really two types of consultation, there's informal consultation and formal consultation. And I think Doug or NOAA GC will correct me if I run astray here. I think at the very least if the Committee's recommendations are adopted NMFS will do an informal recon -- an informal consultation to determine whether or not the change in area seven and eight is sufficient to warrant a full scale re-consultation. If you look at the RPA Committee's recommendations as a whole for the Gulf of Alaska and the Bering Sea I think that you'll find that they measure very well against the BiOp RPA, and I know Doug'll have more to say on this in a moment. So from a global perspective we did our job. The only area of concern, again, is in seven and eight. And our rationale for seven and eight are that this is the area where sea lions are increasing. And we note that in Bogoslof, area nine, where there has been no pollock fishing for 10 years sea lions

continue to decline. The sea lions in seven and eight eat a wide variety of prey in the summer and the early fall, scat analysis has shown that, mainly salmon, herring, pollock, sandlance and mackerel. The telemetry data, again, shows that sea lions remain very close to shore, 60 to 75 percent within two miles, 85 to 92 percent within 10 miles. The current pollock fishing regulations prohibit fishing inside the CVOA in the latter half of the year by catcher processor vessels. The Committee's recommendation is to leave that intact so that that portion of the catch that might otherwise come from inside the CVOA will not be coming from the CVOA. The -- last year we had a significant problem with chum salmon bycatch when the vessels were forced to fish outside the CVOA. That is a very serious issue for western Alaska where some of the runs appear to be failing. If last year is any example, if we force the fish -- the fleet to fish outside the CVOA then we will likely experience significant salmon bycatch problems again. There is a safety issue for catcher vessels that would be forced to fish outside the CVOA, particularly as we move into the fall. The pollock resource has increased very significantly since the release of the BiOp. In fact there are eight to 15 times more pollock available for sea lions today than previously.

Mr. Chairman, the -- I want to go through these numbers with you real quick. The pollock biomass in the eastern Bering Sea is about 10.06 million metric tons. The BiOp shows that

approximately 12.4 percent of the biomass is in the SCA during June, July. If you look at the BiOp, it also shows that that -- the amount -- the percentage of the biomass that's in areas seven and eight during June, July is the lowest amount of the biomass during the year, that as you move into August and September and October the amount of the biomass in that area of pollock continues to increase. The -- so according to the BiOp, in June and July there's about 1.25 million metric tons of pollock in the SCA. Using the methodology that is contained in Appendix three of the BiOp we can identify that sea lions under the most conservative and extreme scenarios would require about 534,000 tons of food for a year. And this assumption, again, is the most conservative that we could possibly come up with using the information in Appendix three of the BiOp. If we assume that sea lions in areas seven and eight are going to eat nothing but pollock, then they will consume 534,000 tons of pollock in the course of the year and that would leave a surplus biomass of about 712,000 tons. The catcher vessel -- the projected catcher vessel catch, including mother ships, is about 433,000 tons for the remainder of this year.

(Change to Tape 62)

MR. COTTER: If you can go back to that slide. The total harvest would be 517,000 which would still leave a surplus of pollock of 195,000 tons. And this again assumes that the pollock

eat nothing -- or the sea lions eat nothing but pollock and we know that is not the case. Further, it's unlikely that 100 percent of the CDQ would be harvested inside critical habitat. In the past a good portion of CDQ has been harvested outside critical habitat and that's likely to be the case this year as well. So from this approach, which in fact is an approach used in the BiOp, we can conclude that there is sufficient pollock to meet the forage needs of sea lions in the area and to meet the TAC available to the commercial fishing industry. The one question this doesn't address is the issue of localized depletion. And to address that I think that the Council needs to remember that the Committee's recommendation closes all fishing inside of 10 miles for pollock. So automatically you have that 10 mile buffer which, again, according to the telemetry data shows that the vast majority of sea lions spend their time in that area. Additionally with the advent of the AFA the catcher vessel fleet has shrunk by at least 20 vessels, the fishery is slower, it is spread out over a much longer period of time, for a whole variety of reasons more pollock is going to be moving into the area as we progress through the summer. So I really do not think that localized depletion is an issue that we really need to be concerned with relative to the Committee's recommendations.

CHAIRMAN BENTON: Hang on just a second there Larry. Ms. Behnken?

MS. BEHNKEN: Thank you Mr. Chairman. Before you leave this point, I don't remember the methodology used in BiOp three. Is that looking -- this is probably a question for Doug, but is that looking at pollock of all size classes or looking at the size classes that are targeted by sea lions or sort of the primary pollock that the sea lions feed on?

DR. DEMASTER: Yeah. In BiOp three what we did was we estimated what the consumption of sea lions would be and then assumed that they only ate pollock, cod, and Atka mackerel. So all -- I mean all sizes, say one year olds and above are -- I can't remember the minimum size of a pollock that we've ever found in a sea lion, but say 15 centimeters or 10 centimeters, something like that. The other thing you should remember on this is that Steller sea lion forage needs, that 534,000 ton estimate, that's the prey field that we believe is necessary for a healthy population of Stellers. As we did in BiOp three, we calculated what they would consume and then we tried to calculate what the multiplier would have to be. That is you can't just have the exact amount of pollock that Stellers eat and then call it healthy. And I think in the BiOp it was -- the numbers were 22 to 46 were the multipliers, something like that. So this 534 incorporates that multiplier of 22 to 46 in -- times the -- what they actually consume. So they consume something -- there's 3,000 ish sea lions in areas seven and eight, they eat roughly 30,000

tons, and that multiplier then gets you up to the 500,000 tons. So that 500,000 tons is the prey field you need, not what they consume.

MS. BEHNKEN: There's one -- well.

DR. DEMASTER: But.....

MS. BEHNKEN: Thank you. So -- and when you say a healthy population you mean at levels we'd like to see sea lions at, that's what you mean that, healthy sea lion population basically.

DR. DEMASTER: Yes, that's correct.

MS. BEHNKEN: Thank you.

CHAIRMAN BENTON: Mr. Austin.

MR. AUSTIN: Mr. Chair. I think that exchange is very important in putting this in perspective and it was a question I was going to ask. The other part of this is I thought I just heard the proportion of the biomass in SCA is based on the summer survey, so this is like a -- that -- 0.124 is like a minimum number and that as the season progresses that number gets significantly -- substantially larger?

MR. COTTER: That's correct Mr. Chairman. I think actually June is the point of the year where the lowest percentage of pollock is found inside the SCA. And as you move from June further on into the year it continues -- it increases and then in probably April it begins to decline.

MR. AUSTIN: So we got two things working for us.

UNIDENTIFIED SPEAKER: That's correct.

MR. COTTER: Mr. Chairman, I'm going to.....

CHAIRMAN BENTON: You got a couple.....

MR. COTTER: I'm sorry.

CHAIRMAN BENTON:more questions. Mr. Krygier.

MR. KRYGIER: No, they just covered the issue I was going to ask about.

CHAIRMAN BENTON: Then I have a question. Just remind me real quickly, Larry, I'm sorry if I didn't catch this. In seven and eight under the Biological Opinion what would be the harvest reduction or what would be the harvest in the SCA?

MR. COTTER: Mr. Chairman, I believe the total for the C and the D season would be about 9.4 percent. So that number would be in the range of.....

UNIDENTIFIED SPEAKER: 70,000 tons.

MR. COTTER:70,000 tons or so.

CHAIRMAN BENTON: That would be allowed to be harvested.

MR. COTTER: That could be allowed to be taken inside the SCA.

CHAIRMAN BENTON: 70,000.

UNIDENTIFIED SPEAKER: That's correct Mr. Chairman.

CHAIRMAN BENTON: And so that's a reduction from -- do you have a rough guess on what the -- I'd heard a number of around

400,000 or 500,000 tons but maybe that just was in reference to what.....

MR. COTTER: If you look at the slide up here, the maximum -
- the theoretical maximum amount that could be taken out by the Committee's recommendation is 517,000 tons. My guess is that it's going to be significantly less than that, but we're trying to play worst case scenario for the purposes of helping the Council to understand.

CHAIRMAN BENTON: Okay. Thank you. Go ahead.

MR. COTTER: Mr. Chairman, just a couple more comments. If you take a look at the map and you look at area seven and eight, you're going to note that that is -- can you throw that up? You're going to note that that's the only place in the Bering Sea and the Gulf of Alaska where you have straight lines. And the rest of the place, you know, it's semicircles, you know, that reflect 20 nautical mile closures, et cetera. In areas seven and eight critical habitat was established back in 1993. And when it was established it was established based upon the knowledge that was available at that time, which was POP data, it was the distribution of the pollock fleet, and in fact critical habitat may exactly coincide with the CVOA. So the question then becomes, and it's a very important question, do we believe that that is a rational reflection of what really constitutes critical habitat. If we were to define critical habitat today do we think we would

have those straight lines? In some cases critical habitat in areas seven and eight extends 100 miles offshore. And so the point that I'm really trying to get at is to -- is it really necessary, is it really rational, to say that 9.4 percent of the harvest could occur in the C and the D seasons and in critical habitat when that area is as large as it is. And if you compare 75,000 tons under 9.4 against the potential of 500,000 tons under the Committee's recommendation they seem to be hugely different numbers, but that presumes that the 9.4 percent was a rational position, and it may have been at the time but given the information that we have now I truly do not believe that it is.

CHAIRMAN BENTON: Okay. I got a couple other people that want to ask some questions. Did you just say though that the restrictions that were in place on the CVOA would be in place -- I mean that other kinds of restrictions, other fishery management measures?

MR. COTTER: That's correct.

CHAIRMAN BENTON: Okay. So that -- all right.

MR. COTTER: C -- catcher processors would not be allowed to fish inside the CVOA during the remainder of this year.

CHAIRMAN BENTON: Mr. Penney.

MR. PENNEY: Mr. Chairman and Mr. Cotter, I got three questions but I'm only allowed to have two so I'll ask the first one first. On a scale of one to 10, if 10 being the normal

fishing activities that the fleets use through the year, how close does your Committee's recommendation come on a scale of one to 10 if 10 would be the old days how close do you come to allowing that fleet to fish as they used to?

MR. COTTER: We're probably in the range of four to five.

MR. PENNEY: The second question if I may, Chairman, do you have any analysis or were you able to do any calculations on the percentage of some other way of what this going to do actually to bycatch?

MR. COTTER: At this time the answer is no. But we know from our past experience that bycatch will occur as a result of activities that may result from what we do here or what we don't do here. We know that if there is going to be a pollock season, for instance, in the Alaska Peninsula this summer that it will essentially be a salmon trawl fishery.

CHAIRMAN BENTON: Mr. Samuelson.

MR. SAMUELSEN: Thank you Mr. Chairman, Mr. Cotter. You've protected the salmon in area five and six because of comments by Beth Stewart, reading your papers here. But the -- a portion of eight and surely seven is an area where salmon are migrating through and your recommendation is June 11th opening date and that's just when the salmon are coming through the pass and outside of Unimak Island there. And, you know, I think portions of eight and seven are going to turn into a trawl salmon fishery

with the high abundance of sockeye salmon coming through that area and western Alaska chums. Have you addressed that -- you've addressed it in five and six but you haven't addressed it in seven and eight it seems like.

UNIDENTIFIED SPEAKER: Mr. Chairman?

MR. COTTER: A few responses to that. One, I think there is only one company that I am aware of, maybe two, that intends to start fishing in June. I think everybody else intends to start perhaps July. Two, there is a inter-coop agreement now that I think you'll be presented with that addresses salmon bycatch mitigation schemes that are going to be employed this summer. So I think that the industry is very focused on avoiding salmon bycatch. Three, I think you have the chum salmon closure areas that go into effect inside seven and eight in the event that chum salmon bycatch exceeds whatever the cap is in that area. That's my response.

CHAIRMAN BENTON: Mr. Austin.

MR. AUSTIN: I withdraw my question Mr. Chair, thank you.

CHAIRMAN BENTON: Mr. Mace.

MR. MACE: Mr. Chairman, I -- Larry, I think that the success of any community effort depends upon the quality of the leadership and I can -- in my view and I think the Council's view the effort is very, very successful. But I do have a question. Has the Committee considered the impact of changes in closures around

rookeries and haulouts, changing fishing regulations on the success of research efforts? In other words, we keep changing the baseline, someplace along the line you got to have a starting point and maintain that starting point, in my view, through the research effort. But we continue and have for years past changed the goal post and the baseline and is this a part of your review, are you considering this from the research impact standpoint?

MR. COTTER: Mr. Chairman, I think the answer to that is yes but I think it's a perspective yes. The Committee's effort was focused on June 11 through December 31 this year. As we move into the remainder of our work which is January 1 and thereafter we're going to pay a lot of attention to experimental design and try and set things up so that we can monitor the impacts of our actions. My personal opinion is that in addition to that, sea lion management in the future, we need to construct some sort of program that is also a living program that reflects the accumulation and acquisition of new and improved information so that we can make modifications as are necessary and appropriate to improve the steps that we're taking to help the animals recover.

MR. MACE: Thank you, thank you Mr. Chairman.

CHAIRMAN BENTON: Fluharty.

DR. FLUHARTY: Mr. Chairman, I guess this is a question for Dr. Demaster. I mean in looking at this, I mean we've seen some definite positive benefits for the fishery, but the bottom line

that we have to be concerned about is not only meeting the Biological Opinion but actually improving on it in terms of protection of Steller sea lions and other things that we are concerned about. And the summary slide that you showed points to pretty significant improvements made under the Committee RPA's is -- and I mean I think you would be the one that would be able to tell us, I mean what's -- what does that mean? I mean percentages are very hard for us to interpret, but what does that mean in real terms, in terms of protection for Steller sea lions by changing things around as we've proposed?

DR. DEMASTER: Mr. Chair, Dr. Fluharty, there's -- I think we had three different standards that at least I've considered as a scientist at NMFS that's providing advice to the region and Office of Protected Resources. The first piece are these three criteria which we've already gone over. The second piece was the appendix three type approach where we looked at are we leaving a prey field in the area say seven and eight that's adequate for Stellers? And I think the conclusion is yes, we are leaving an adequate prey field in areas seven and eight relative to the recommendations of the RPA Committee. The third approach that I've done personally, and I didn't do this while the RPA Committee was meeting, was I took the population projection approach that's described in the Biological Opinion, and that's chapter nine I believe, where we had assumed there was a benefit to the population in closed areas

and we allowed the population's trajectory in that area to increase by four percent, I don't know if you remember the details in the Biological Opinion. But I did that same analysis with the RPA Committee recommendations. In the Biological Opinion the resulting trajectory was a slight decline on the order of seven-tenths of one percent per year following the implementation of the consummation measures in the Biological Opinion. That same analysis done with the RPA Committee recommendations suggests that the decline is about half of that, so it's about .35 percent per year. So the -- that analysis would suggest that the RPA Committee's recommendation, because we're increasing the amount of closed areas in particular in the Gulf and the Aleutians where you have large declines actually gives you a slight improvement in the expected trajectory over the next eight years.

CHAIRMAN BENTON: Penney.

MR. PENNEY: Mr. Chairman, Mr. Cotter, there's a follow up on Mr. Samuelsen's question. The Board of Fish recently gave very severe restrictions to area M and Yukon River on chum salmon, they're very severe. And that fishery may be on the edge of being threatened. So I for one member of this Council, I want to see what that bycatch is going to be as Mr. Samuelsen said, and if you know some people that are going to be fishing in there I'd hope you can ask them to deter because everybody's doing what they can to conserve those chums. I for one want to see very closely what

that bycatch is. And if I can, Mr. Chairman, just very quickly. I can't tell you Mr. Cotter how impressed I am with your presentation. I'm very impressed with the fact the industry in five months could come back with such a well founded, scientific, well articulated response to the last BiOp in last November. I wish every person that's objecting against this in our country could see it. I hope you print 40,000 of them and send it to every person you can and require it as reading. And this may not be (indiscernible) to the Council or anything else, but when I see somebody that's done an outstanding job, and that's an outstanding job in two months. I want you to take back to your Committee this thought because I'm going to ask that we give you a round of applause for a beautiful job.

(Applause)

MR. COTTER: Thank you.

CHAIRMAN BENTON: Have to watch out because you don't know Larry as well as some of us do and pretty soon he's going to puff up so big he'll float to the ceiling here if you keep that up. Mr. Bundy.

MR. BUNDY: Thank you Mr. Chairman. Two quick questions, and I think that they've been answered but I wanted to be sure. And they're -- and don't take offense Larry, but I'm going to ask Dr. Demaster because he's a higher authority I think. One is how does the package that you -- that the Committee proposes from a

protection -- sea lion protection standpoint compare to what we would have had under the emergency rule? And I think that that was just what you answered but I wanted to ask it that way. And the second question, just to be quick, is from a standpoint of how many animals there are and what they are doing is the telemetry data quality wise better than the POOP or POP data?

DR. DEMASTER: It might have been a little Freudian asking it -- adding that extra O to the POP. Although maybe not, it's -- anyway, it's -- we've had species of feces and now we've had pop to poop or whatever. But in terms of quantitative assessments the two measure -- or the three measures that I'm comfortable with are the one that's on the board behind you there, those contrasts, those are all in the right direction except for the amount of critical habitat went down in the RPA Committee's recommendation relative to the BiOp. The other two went up. The prey field by the analysis that we did similar to appendix three suggests that we're comparable to the BiOp in the RPA Committee's recommendation. And then the final analysis was that trajectory, if you assume you get an increase in areas that you've closed and no change in the underlying trend in areas you didn't -- you don't close, that suggests a slight improvement in the RPA Committee's recommendation relative to the BiOp. And then in terms of the data, the POP data I really have trouble interpreting their -- they tend to reflect where observers are at sea and I think the

satellite data tend to be a much better reflection. That being said, the satellite telemetry data at this point have some biases in that we don't have adequate sample sizes for juveniles and we don't have adequate sample sizes in the fall. Yeah, I'm supposed to say equal to or better than in terms of my final conclusion. As I said, I think the three criteria the Committee had are all in the right direction or are comparable.

CHAIRMAN BENTON: Dr. Krygier .

DR. KRYGIER : Dr. Demaster, the BiOp had the prey field estimates on whether or not there is a adequate amount of prey field. For example, in the SCA it's something like 535,000 tons that are needed to produce an adequate prey field. And the -- that's based on available amount, or at least the calculation that was shown there, was based on an available amount from the summer survey, which we know is taken at the lower amount of available biomass in that area. Are there -- so that we can get a better handle about how much there really is available in relationship to the available biomass, is there in the suite of research projects that are out there to do, is there some of them that are going to go do some fall and fishing time surveys? In other words as far as to try to get a better handle about the available biomass in relationship to the prey field.

DR. DEMASTER: Mr. Chair, Dr. Krygier , we've just completed a survey, a February, March survey, out in the Aleutians, eastern

Bering Sea and Kodiak area. It was a difficult survey. I think the agency is trying to make a determination if that's something that it wants to continue on an annual or biennial basis. But nonetheless we did do the survey in February and March that would describe the distribution and relative abundance of pollock in the -- in these areas.

CHAIRMAN BENTON: Dr. Fluharty.

DR. FLUHARTY: Mr. Chairman, and this would be to the Committee, I know Larry spoke to this. But in terms of -- as I understood what Larry said on terms of the critical habitat, I mean that's -- that 66 percent in the BiOp is of the total critical habitat area so that -- and that what you're doing is essentially I guess substituting areas that -- of critical habitat that seem to have more benefit to Steller pups and non-pups than that -- say, for example, that offshore area in the SCA that may or may not have a lot to do with it. So you're making those more proximate. I'm also aware, and this -- I just want to check if my understanding is correct, from dealing with salmon in the Columbia and ESA critical habitat. It is perfectly reasonable within crafting measures in response to this to choose the most effective areas biologically and economically. I mean this kind of trade off and working that the RPA Committee is doing is an acceptable process within -- under the ESA even where we are with endangered species. I mean I know from that process that cost effectiveness

of measures and other kinds of things are things that we can take into account. So I just wanted to confirm that that's basically the approach that we've achieved with this RPA approach.

MR. COTTER: Mr. Chairman, our first priority was to increase measures to assist sea lion recovery in those areas where sea lions needed it the most according to population trend information. That allowed us in other areas, particularly where sea lions are increasing, to relax some of the restrictions.

CHAIRMAN BENTON: Ms. Behnken.

MS. BEHNKEN: Thank you Mr. Chairman. I have a couple unrelated -- or not related to each other questions. The first, Larry, you made the comment you thought that the outline of the CHCVOA was maybe not appropriate anymore at this time. I didn't know if that was a Committee recommendation or not and I -- it was your recommendation. I was wondering if -- Dr. Demaster, if that's something you could comment on, whether it's something the agency is reexamining, sort of where we stand with that issue.

DR. DEMASTER: Yes, I'd be happy to comment on that. At this point critical habitat is the way it's defined. That can't be changed quickly. The agency is going through a process by which to revise the existing recovery plan for Steller sea lions and part of that process will likely identify the need to reevaluate available data in terms of defining critical habitat. So that's likely to be the process by which that evaluation will happen but

it's -- to change critical habitat is formal rule making and is a long involved process.

MS. BEHNKEN: Thank you. And can I.....

DR. DEMASTER: Go ahead.

MS. BEHNKEN: Okay. Then, let's see, my other question, very early in your presentation you talked about Prince William Sound and some closures there to certain fisheries and I was wondering what the interaction there was with the State, is that -- is the RPA Committee making those recommendations to the State and they're going to take up those proposed closures or what's the next step in that process?

MR. COTTER: The RPA Committee only focused on fisheries that are under the Council's jurisdiction. So to the extent that there's any State fisheries, that's up to the State, and in terms of what the State is doing, I don't know.

CHAIRMAN BENTON: There any other questions? We're going to grind through this till we're done with these guys before we break for lunch. Dr. Fluharty.

DR. FLUHARTY: Mr. Chairman, Larry, I note -- I remember you mentioned that two members of the Committee were not able to endorse these recommendations. Did they have a minority report or is there a way to characterize the specifics of their concerns?

MR. COTTER: Yes Mr. Chairman. In the minutes of the RPA Committee from January 26th through the 29th on page four there

are a couple of tables -- or paragraphs that I think refer to it. I think that Mr. Leape was concerned with many things. He did not support the emergency rule that came from NMFS that allows jig and pot fishing inside three miles. He was concerned about the telemetry data, that there was not a sufficient sample size. He was concerned that adoption of the package could trigger reinitiation of consultation. He also felt that 20 mile trawl closures were necessary. Having said all of that, he also though I think is supportive of the Committee process and looks forward to continue to participate. Mr. Cline initially was undecided and was unable to conclude whether or not he could support the Committee's recommendation or would have to object to it. He subsequently made the decision to object to the Committee's recommendation. He provided a letter to me that, if it's not distributed -- we can make it available to you. Oh, it has been handed out. It's in the supplementals. And in that he articulates a wide array of ecosystem concerns is I think the best way to put it.

DR. FLUHARTY: Thank you.

CHAIRMAN BENTON: Ms. Behnken.

MS. BEHNKEN: Mr. Chairman, just -- I think Dr. Fluharty, I don't know if he's found it or not, but there was also a package prepared that was in our supplemental from the two of them that speaks at length to the -- their continued concern.

MR. COTTER: It was handed out yesterday Mr. Chairman.

CHAIRMAN BENTON: Any other questions for the Committee?

Then I presume that concludes your report Mr. Cotter?

MR. COTTER: I have two very brief things. One is that the Committee has two more meetings scheduled before June, so we'll be coming back to you in June with some recommendations. And also when I thanked everybody I neglected to thank Dave Witherell and single him out for appreciation. You know, the Chair is one part of a Committee but staff is the key to making everything work and Dave has really worked his buns off as well, so thank you Dave.

CHAIRMAN BENTON: Is that it?

MR. COTTER: That's it Mr. Chairman.

END OF REQUESTED PORTION

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Discussion/Action on Steller Sea Lion Management Measures

April 16, 2001

CHAIRMAN BENTON: That concludes public comment on agenda item C-2. Mr. Mace?

MR. MACE: Mr. Chairman, I -- before we make a motion, I -- I'm probably the only one that is not clear on this, but I would like to ask Dr. Balsiger, with the AP recommendations supporting the RPA Committee's report with certain exceptions, does that provide for solving the hiatus between June 10th and July 17th issue that Donna Parker brought up? If we approve the AP recommendations will that cover the issue?

DR. BALSIGER: Mr. Chairman, I think some problems remain relative to June 10 to July 17 which I understand -- we had testimony from Ms. Parker as well as somebody else and I understand the dilemma. We'll have to sort around and see what we can do. Part of the problem is that it takes a little bit of time to either change an emergency rule or get the new emergency rule in place. And so we had been thinking we would target perhaps July 1st for the rule that would contain what's in the RPA, and I understand that causes some operational difficulties so we'll have to examine that. I'm not quite certain how or if we can overcome the system and change rules by June 11th, but I understand the problem.

MR. MACE: Okay. Mr. Chairman.....

CHAIRMAN BENTON: Is it a motion or a question?

MS. BEHNKEN: Question.

CHAIRMAN BENTON: Okay. Ms. Behnken.

MS. BEHNKEN: Thank you Mr. Chairman. So as long as the Council makes its intent clear to you that what we are after is a sort of seamless transition between these emergency rules that you'll do your best and there's really nothing more we can do at this time to assist you in that direction?

DR. BALSIGER: Mr. Chairman, I think that's correct. We're going to work very hard to do this as quickly as we can. But even with Dr. Pautzke back there there's still a need to carry documents around to various places, so June 10th will be very soon, so -- but we'll try as mu -- as we can. But I.....

MS. BEHNKEN: Thank you.

MR. MACE: Mr. Chairman.

CHAIRMAN BENTON: Mr. Mace.

MR. MACE: I recognize that there may be some additional questions to staff, but I would like to place a motion on the table. I move that the Council adopt the AP recommendations with respect to item C-2, Steller sea lion measures, as contained in the April 14th year 2001, 3:00 p.m. edition of the draft AP minutes. And I will read those sections. The AP recommends that the Council not include a separate and specific analysis of the options included in the September 2000 Steller sea lion cod fishery EA in EIS for the 2002 SSL RPA. The AP further recommends that the Council instruct the RPA Committee to consider the

elements and options contained in the September 2000 EA/RIR as it develops RPA recommendations and alternatives for June.

Additionally the AP recommends the Council delete alternative three. With respect for recommendations for the second half of the year 2001, the AP requests the Council adopt the RPA Committee recommendations for the balance of 2001 with the following revisions. Bering Sea areas seven and eight and the Aleutian Island areas 12 and 13 should open September 1st for pot cod vessels over 60 feet. [The harvest of] Pot cod vessels under 60 feet, however, would be deducted from the 1.4 percent quota when the pot fishery for vessels over 60 feet is closed. [The harvest of] Pot cod vessels under 60 feet, however, would be deducted from the 18.4 percent quota when the pot fishery for vessels over 60 feet is open.

UNIDENTIFIED SPEAKER: Mr. Chairman.

CHAIRMAN BENTON: Well, wait a minute, he's not done with his motion, is he?

MR. MACE: Further, the AP recommends that the Council close the Chiniak gully as proposed by the National Marine Fisheries Service for experimental purposes. We further request the Council requ -- the AP further requests that the Council request the State of Alaska to close the State water portion of this gully to pelagic trawling to ensure the effectiveness of the experiment. The AP also requests that the National Marine Fisheries Services

and the Alaska Department of Fish and Game make available the sea lion telemetry data in the GIS database format in the most expeditious manner possible such that the public may examine plots of individual animal tracks. The AP recognizes the importance of this information to the RPA development process and appreciates the preliminary work of National Marine Fisheries Service and ADF&G to make this information available to the RPA Committee. End of motion.

CHAIRMAN BENTON: It's been moved by Mr. Mace and seconded by Mr. Samuelson. Mr. O'Leary, you're first up.

MR. O'LEARY: Yeah.....

CHAIRMAN BENTON: Actually wait a minute, just a second, hold on Mr. O'Leary. Mr. Mace, did you want to speak to your motion at all?

MR. MACE: Well, I.....

CHAIRMAN BENTON: I'm sorry.

MR. MACE: You know, I think that the AP adequately addressed these concerns, I realize that there are some problems with it but I think it -- get it on the table and debate it and I don't have any further comments to make other than I support the AP's recommendations which were pretty well unanimous with respect to those votes.

CHAIRMAN BENTON: Mr. O'Leary.

MR. O'LEARY: Mr. Chairman, I just have one question regarding Mr. Mace's motion, the line additionally the AP recommends the deletion of alternative three. I thought we had heard from NOAA General Counsel yesterday that alternative three ought to be included just to provide the full range of alternatives in the motion. And I was wondering if Mr. Mace recalled that and if he does what his sense is of that. I'd be willing to make a friendly amendment to include alternative three if Mr. Mace thinks that's appropriate.

MR. MACE: Mr. Mace [sic] -- or Kevin, I understand there may be some difference of opinion in this and I would not accept it as a friendly amendment, open it for debate.

UNIDENTIFIED SPEAKER: I'll second that as an amendment.

CHAIRMAN BENTON: Okay. So now it's been moved by Mr. O'Leary, seconded by Ms. Behnken to reinstate alternative three. Counselor.

MS. SMOKER: Excuse me. Thank you Mr. Chairman, Council members. Actually Brent Paine in his testimony had referred to a conversation I had with him earlier yesterday so I really never had a chance to address you on this particular issue directly. But my concerns with the elimination of this alternative is that NEPA requires consideration of all reasonable alternatives to an agency's action. And an agency's consideration of alternatives is sufficient if it considers an appropriate range of alternatives

even if it doesn't consider every available alternative. An agency doesn't have to analyze alternatives which are not significantly distinguishable from alternatives actually considered or which have substantially similar consequences. However, an EIS will be rendered inadequate by the existence of a viable but yet unexamined alternative. And with alternative three, at this point I guess I had talked to Brent and it seemed to me like it is a viable alternative for the following reasons. It was actually implemented for a period of time during 2000, and alternative three, again, is basically the fishery as it was configured under the injunction that was issued in the court order from early August to I guess maybe the beginning of December this year. It does appear to be distinguishable from the other alternatives at this point as far as I can tell and its inclusion may actually help to define the issues and would present the impacts associated with this alternative and also give you an opportunity to see the impacts of this alternative in comparison to the other alternatives. Finally, it's an approach that has been presented in the RPA Committee by Mr. Leape and Mr. Cline and to some extent AMCC. So it could be a situation that the RPA Committee itself might have to deal with. So that was what I think right now, if you want to debate this issue those points might be appropriate to address.

CHAIRMAN BENTON: Counselor, maybe this is also the appropriate time to ask you this question. I apologize, I was going to try and give you a heads up about this, a question I wanted to ask you. But if you don't want to answer it right now and you want to mull this over for a bit that's certainly appropriate. One thing that concerns me about this action and its relationship to the more deliberative process that we have going on for 2002 and beyond. And you've just spoken to NEPA and the requirements under NEPA which are basically you have to look at all viable alternatives in making your decision as I understood your statement there correctly. The other requirements under NEPA are that -- and I think it's particularly germane in this instance, that you have a very thorough and complete analysis and that you look at cumulative impacts in a comprehensive manner. And I have to tell you, I thoroughly appreciate the work that the RPA Committee's done in short order. I -- I'm truly impressed and I think that we've got something here that is of importance and value. My concern is that what we've had is a presentation from the Committee and staff. We have not had a -- sort of a thorough rendering of that by the agency and I'm just wondering how that fits in with our larger and more long term project. The action that we would be taking for the latter half of this year in some ways is dictated by the legislation Senator Stevens got through at the end of last year, but it's still somewhat governed by NEPA and

the ESA. And what I would like to hear before we take final action is what the -- sort of what the legal standard here is because I -- the one thing that I think this Council needs to insure is that we maintain the integrity of our process because that's what's gotten us in the past. And we're I think on the road to fixing the procedural and process issues with the analysis that we have getting started, the independent scientific review that we have contracted for and that kind of thing, and I fully expect that these kinds of measures would be part of that analysis. So my question is how does all this fit together, what's the standard we need to reach for this -- that we need to reach in order to move for the end of this season. And I guess maybe tied into that is, is there a difference between the Council adopting this -- adopting the RPA Committee's recommendations or forwarding them onto National Marine Fisheries Service for consideration within the context of the existing Biological Opinion, because we're not changing -- we can't change that Biological Opinion now. And if you want to contemplate that for awhile, it's sort of a mouthful, but I can certainly understand that. Or if you want to comment now that's fine.

MS. SMOKER: Thank you Mr. Chairman. Let me take a stab at it, but if I have missed some of your questions please feel free to relate them again to me and then if I need to think a little bit more I will. A couple of different things going on under this

agenda item. The Council is looking at making a decision, taking final action, on what to do for the second half of 2001, which is basically the RPA Committee's recommendation. As Dr. Balsiger eluded to when he was responding to Mr. Mace's comment about what do we need to do to get this rule in place in an earlier time frame, there will be analyses that the agency, with Counsel staff assistance, will be preparing for this either adjustment to the current emergency rule or the extension of the emergency rule, and as I understand it right now that would include an EA to satisfy NEPA requirements. What my understanding is for this particular alternative, alternative three, that is going to the RPA -- the EIS being prepared for the implementation of an RPA for 2002 and beyond. And I under -- it's my understanding that the AP's motion is going to removal of that particular alternative from consideration in that NEPA document being prepared for the 2002 measures and beyond. So at this point I think that the EA or the NEPA document that we'll be preparing for the second half of the 2001 fishery is still in developmental stages, I'm not sure what all alternatives will be in it, I can take a guess. Status quo and the RPA alternative, if that is what's forwarded by the Council -- or the AP motion, if that's what's forwarded by the Council, I'm not sure what else might be examined. Then you al -- and I don't know if that addresses your question for NEPA, but then you also referenced the Biological Opinion and maybe I'll --

I've kind of lost my train of thought so maybe I'll have you either articulate that again and I'll get back to you or.....

CHAIRMAN BENTON: That's fine. The -- but to follow up a bit on the EA, and my last -- very last question. So procedurally the Council at this -- and could somebody close that door there please? Because those people out there are distracting.

Procedurally the action by the Council here is really going to be a recommendation for a certain suite of fishery management measures -- a recommendation for those management measures to be considered by the agency as the agency develops an EA and a subsequent emergency rule. Is that correct? I mean there's a -- it may be a distinction without a difference or it may be very important and I can't decide this yet in my own mind and I'm asking this now so Council members can be thinking about it. But the process that we are going through for 2002 and beyond is a very deliberative process.

MS. SMOKER: Yes.

CHAIRMAN BENTON: At the end of that the Council will be acting based on that analysis and all the scientific input that we are getting. There may be new information that comes out of that or information that is sort of presented to us that causes the Council to consider different kinds of management actions.....

MS. SMOKER: Huh-hum (interrogative).

CHAIRMAN BENTON:that the Council will adopt and send on to the Secretary. Which may start a new re-consultation and maybe even a new Biological Opinion based on that scientific information and those measures.

MS. SMOKER: Huh-hum (interrogative).

CHAIRMAN BENTON: That to me is different or could be different than what we're doing now. If the agency is going to be preparing the EA, which we do not have before us, and if the agency is going to be considering this in the context of the present Biological Opinion it may be such a thing that what we're doing is we are forwarding to you with a recommendation that you strongly consider what came out of the RPA Committee, it isn't that something that maybe the Council formally adopts as a -- you know, as an action. And maybe that's a semantic issue or not, I really sort of think -- I'd like for you to think about that. But I'm concerned about maintaining integrity of our process here and to have it be very rigorous and quite defensible to be honest, when we get to a decision time in October.....

MS. SMOKER: Huh-hum (interrogative).

CHAIRMAN BENTON:for 2002 and beyond. And I'm con -- I'm just concerned about the process and the procedures so that we have all the legal I's dotted and the -- and T's crossed.

MS. SMOKER: Yes, I understand, Mr. Chairman, that that's very important. I think I might have Chris jump in here too. But

I thought at this -- that you're right, for 2002 and beyond we will have a deliberative process. This particular EIS that's being developed by Council staff and agency staff will serve as the basis for that process, looking at a range of variable alter - - various alternatives. And one of those which has not yet actually been crafted is what the Council's recommendation would be based on RPA Committee work over the next following months plus any other input you might have over that time period towards the end of the year. So that would be one of the alternatives, that we have left a spot in this EIS. And at that point I assume you'll be taking final action in October that forwards a recommendation to the agency for consideration for 2002. At this time, as I understand it, you're also basically taking final action -- or you're contemplating final action for a recommendation to the Secretary for modifications for the second half of 2001. And at this point Mr. Mace has moved the AP recommendation, which is basically the RPA Committee proposal with a few modifications. And for the agency to consider that and potentially approve that it will need to comply with various other laws, NEPA being one. So we'll be preparing this NEPA document which I understand at this point would be an EA which isn't yet drafted, is in the process of being developed. So I don't know if I answered that last question you had or not.

CHAIRMAN BENTON: We can chew on this for a little bit because I think there's going to be other things go around the table.

MS. SMOKER: Okay.

CHAIRMAN BENTON: But that's helpful. Mr. Austin.

MR. AUSTIN: Mr. -- thank you Mr. Chair. Counselor, I want to be a lot more specific. I need to know before I take actions on this whether there's any procedural problems that would preempt or -- the Secretary from adopting the Council's recommendation. I think the agency should be able to tell this Council whether or not our actions are something that if you agreed with this you could put in place in time for the fishery.

UNIDENTIFIED SPEAKER: Mr. Chairman, the procedural problems that Mr. Austin, that you refer to, I guess we have to go through a -- the development of an EA and the forwarding of these documents through a variety of offices. So that is a procedure and that may prevent us from putting that in place by June 11th. So if you're referring to that as a procedural problem, that problem exists and I'm not certain that we will get over it. But that's what we talked about earlier so I'm not sure if you're asking a question beyond that.

MR. AUSTIN: I'll be more specific. Is the need for consulting on a formal basis going to preempt the Council's action, or on an informal basis in which the Council's action

could be implemented if the Secretary agrees. That's the procedural problem. I'm used to dealing with ESA and getting agency recommendations as the actions are being taken in a timely way so the management fisheries can occur. And the agency tells us right up front when that is happening that we are complying with all the rules so our decision can be immediately implemented. And that's what I'm seeking in my questions from your agency right now. Same type of support I'm used to getting in the south when we have to deal with this same type of issue.

UNIDENTIFIED SPEAKER: Mr. Chairman, I think Dr. Hogarth, when he addressed the Council, indicated that he did not see a reason why the agency had to reconsult on it if that's your question.

MR. AUSTIN: Yes.

UNIDENTIFIED SPEAKER: I think he informed us that that was his opinion.

MR. AUSTIN: Thank you.

CHAIRMAN BENTON: Dr. Fluharty. No. Okay, Ms. Behnken.

MS. BEHNKEN: Mr. Chairman, I was going to get back to the amendment on the floor if -- but only if people are finished with questions to legal counsel.

CHAIRMAN BENTON: Let's go around one more time and just see if anybody has any sort of procedural or legal questions you want to ask before we go back to the amendment. Okay, go ahead.

MS. BEHNKEN: Okay. Mr. Chairman, I was just going to address Mr. O'Leary's amendment. Especially after hearing the explanation that was just provided to us from legal counsel I think it's in the best interests of all involved at this point to keep that alternative three in there. It strengthens the NEPA document as I understand it and insures that we won't be found short one alternative as this goes forward. So I'll be supporting the amendment.

CHAIRMAN BENTON: Okay, any further discussion of the amendment? Is there any objection to the amendment? Hearing no objection, passes. So alternative three would now be back in the analysis. We're back to the main motion. Any discussion of the main motion? Ms. Behnken.

MS. BEHNKEN: Thank you Mr. Chairman. I think that for the record it's important to note that the work that was done by our RPA Committee did comply with the yardstick or the standard they were presented of having to insure that 50 percent of critical habitat was closed, or at least 50 percent, that both pups and non-pups were protected at a level equal or better than the protection afforded by the November RPA's. And what I heard from Dr. Demaster was that when he ran a projection of POP -- the population over time their likelihood of -- or it was improved from the projection that they saw with the November RPA's. So it seems to me that while it may not be the long term solution,

that's still being worked on, that it's certainly a solution that provides adequate protection to sea lions while being far less onerous to the industry. My understanding is some new information was presented. I would specifically cite the correction in the maximum rate of removals by the hook and line fleet from the 10,000 metric tons per week down to 5,000 that resulted in some of the changes that the RPA Committee has recommended, as well as a new or a sort of look at the telemetry data on a different scale. That helped the RPA Committee develop the recommendations they've made. I understand there's still some questions about the use of that telemetry data, I know those will continue to be looked at. And also that a lot of parties involved want it to be clear to the Council and.....

(Change to Tape 73)

MS. BEHNKEN:improves on what we had in front of us in November. I would read from the SSC minutes that the SSC noted that to the extent that the Committee's proposal -- or that the -- one of the impacts of the Committee's proposal that less fishing takes place during the summer in areas seven and eight and that that was likely to result in lower chum salmon bycatch. And that in the areas where there is any relaxed protection around rookeries to Steller sea lions it's only in areas where trends of Stellers have been increasing during the 1990's. I think they've made a very good effort, I'm impressed by the work that was done,

and look forward to seeing what they come up with with -- for 2002 and beyond.

CHAIRMAN BENTON: Mr. Krygier.

MR. KRYGIER: Yes, I'd just like to comment on the request for the State to partake in the Chiniak gully experimental design. We're very supportive of that, we've already talked about what we need to do to bring ourselves into compliance with whatever it is that National Marine Fisheries Service is putting together to make that experiment a success. So we'll be on board on that.

CHAIRMAN BENTON: Okay. Any further discussion of the main motion? Dr. Fluharty.

DR. FLUHARTY: Mr. Chairman, it's unfortunate we didn't get the chance to talk with the people who were on the Committee but didn't choose to support the recommendations. I just wanted to point out that according to the documents that they have provided us, which I take it this blue document is sort of where they went in and where they came out. There are at least two items on there, two of their principles -- the principles I think we can all agree with and we're all working on them, but there are two of them that were not included in the Biological Opinion. One is reduce catch levels, that was not requested at the global level under the RPA. And also the trawl exclusion was not necessarily part of the RPA, that that was a selective measure to be applied. And I think that we should make sure that we have that in the

record, that what they were asking for may represent a long term broader difference on what the RPA should include, but in terms of the target that the Council was trying to meet with its RPA's, I think we've made some really strong improvements without reducing any of the protection measures. And so I think that we shouldn't sort of have a higher hurdle to jump over in terms of making that record, at least for the action we're proposing right now.

Comment.

CHAIRMAN BENTON: Okay. Mr. Austin.

MR. AUSTIN: Thank you Mr. Chair. I believe I'm very comfortable in supporting the RPA Committee recommendations as well as the small modifications put on by the AP. I think the Council was very wise in the appointment of the RPA Committee and the Committee has operated beyond my expectations and I'm very proud of that group of people. But it's also operated -- it's operated that way for two reasons from my perspective, and that is the industry's willingness to step up to this challenge even though they might not have agreed, and probably a lot of them don't, with the conclusions drawn from the Biological Opinion. But also the agencies', both Federal and State's, willingness to embrace this process and provide the necessary support and interactions with the industry. So I think they've done a fantastic job and I'm very excited to support the work they've -- the recommendations they've put in front of us.

CHAIRMAN BENTON: Any further discussion? Before we take the vote I have just a couple of things that I wanted to say about this. First, it was a -- quite a challenge to choose people to be on the RPA Committee. And I too have to echo Mr. Austin's remarks, I am very proud how that Committee worked. I think the Chairman in particular pulled it together and made that a functioning organization in quick order. And they've done an exemplary job and I'm very pleased with the result. I think that the important point is to note that the results fall within the criteria that the agency has established under the existing Biological Opinion. It did not require modification or reinterpretation of that Biological Opinion by the Council or the RPA Committee, it was something that the agency in charge and responsible for ESA matters developed and that the Committee came up with a suite of measures that fit within those criteria. Having said that, I think it's also important that we understand and that it's on the record that it -- what we do here in no way prejudices the result of the analysis that we're going to have for 2002 and beyond. The National Environmental Policy Act and the Endangered Species Act and the Magnuson Act all require that the Council look at the full range of alternatives and consider all possible management actions that would fall within the scope of those reasonable and prudent alternatives. We will be getting a full analysis later in the year. That analysis will be subject to

considerable scrutiny, including independent scientific review. I expect that these measures that we're going to forward to the Secretary will be part of that analysis and that scrutiny. I think they will stand the test of time. I think that it is important that the public understand that what we are doing here is in some ways constrained by the time period that we are in and that we have to take an emergency action. That the analysis that we had in front of us was comprehensive, was new information that we had not seen previously, and in that manner justifies in my mind that action -- the action that we would be taking here. The relationship of this to what we do for 2002 and beyond to me is important in the sense that it not prejudice or not foreclose any options. I think that we are doing that. I think that what we are doing is also -- doesn't preclude or put us into a situation where we are in a legal box, something that I have also been concerned about. As NOAA General Counsel has pointed out, this - - there will be an EA after this, that EA will look at this alternative that we're forwarding plus other measures. The agency ultimately makes the decision for the -- what goes into the emergency rule. The more deliberative process that we will be going through may very well come up with these measures or other measures depending on the analysis and the results of that process. That may be something that when we get to the end it looks very similar to this, but that will be because of that

analysis, not because of this action. So with that, Mr. Mace, you get the final word.

MR. MACE: One -- I don't know if I can make these comments, but one thing that impressed me, not only the leadership of the RPA Committee, but the ability of the members to come to consensus. But the key to the whole issue was the availability of the data and the respective staffs of the State and the Federal folks, our Council staff was just above and beyond the call of duty. Those people put it on the line, a lot of other responsibilities were involved but they put it on the line and got that data to the Committee in a timely fashion and those people need a tremendous amount of recognition and thanks on our part.

CHAIRMAN BENTON: Dr. Fluharty.

DR. FLUHARTY: Mr. Chairman, one part of the analysis that I think would be very helpful to have a clarification on. It was presented -- and this relates to the C-2 supplemental from -- and relates to the calculation of the consumption of Steller sea lions in the eastern Bering Sea. We go through a Steller sea lion forage needs analysis. That results in a number of 534,000, but that doesn't represent -- that's not the consumption. And I think if we could add a line in there that says what they actually consume and then the forage -- and then go through the analysis that explains what the forage base is to allow that consumption, the requirement. That would -- that's a step that's missing that

would make it a lot clearer for me and for I think a lot of people reading this to be able to understand what that forage is. I originally thought that they were talking about consumption as opposed to a more complex ecosystem oriented discussion and I think that would be helpful when this goes forward to include that step and to explain how that's calculated. It's calculated according to appendix three, but, you know, put that in real words, what -- how you got to the number. Just a simple technical thing.

CHAIRMAN BENTON: Any further discussion?

UNIDENTIFIED SPEAKER: Question.

UNIDENTIFIED SPEAKER: Question.

CHAIRMAN BENTON: Ready for the vote.

CHAIRMAN BENTON: Mr. Oliver, this is an emergency rule, so, Dr. Balsiger, you get to go last. Something tells me it won't be all that close, but you get to determine.

MR. OLIVER: Okay Mr. Chairman, it wasn't explicit in the motion, but this is in the form of an emergency rule request, correct?

MR. OLIVER: Yes. Okay then. Mr. Austin.

MR. AUSTIN: I'm always first. Yes.

MR. OLIVER: Start with a ay.

MR. OLIVER: Start with an ay, yeah.

MR. OLIVER: Got lucky today. Ms. Behnken.

MS. BEHNKEN: Yes.

MR. OLIVER: Mr. Bundy.

MR. BUNDY: Yes.

MR. OLIVER: Mr. Krygier.

MR. KRYGIER: Yes.

MR. OLIVER: Dr. Fluharty.

DR. FLUHARTY: Yes.

MR. OLIVER: Mr. Mace.

MR. MACE: Yes.

MR. OLIVER: Mr. O'Leary.

MR. O'LEARY: Yes.

MR. OLIVER: Mr. Samuelson.

MR. SAMUELSEN: Yes.

MR. OLIVER: Mr. Benton.

CHAIRMAN BENTON: Yes.

MR. OLIVER: Dr. Balsiger.

DR. BALSIGER: No.

MR. OLIVER: Passes nine to one.

MR. O'LEARY: Mr. Chairman, before we move off the subject I have one issue I'd like to raise.

CHAIRMAN BENTON: Mr. O'Leary.

MR. O'LEARY: Yes Mr. Chairman. With regard to the testimony of Thorn Smith and the chronology and the sort of factual basis that he laid out for the inclusion of the freezer longliner fleet

in the RPA's. The action we've just taken is related to an emergency rule necessary to essentially provide the base -- legal basis for the rest of the year. But the Committee is in fact, as we know, working on the longer term solution to the problem. And Mr. Smith laid out basically the reasons and the factual basis of why in the original RPA's and biological analyses that -- from BiOp one on through three, the freezer longliners had been included in this -- in the RPA's. However, it appears that the factual basis, the 10,000 tons per day take, was in error. And I think it would be helpful to both the industry and to the RPA Committee if as the analysis for future RPA's moves forward in the next few months, if National Marine Fisheries Service would clarify why the freezer longliner segment ought to be -- continue to be included in the RPA's. And so I would hope that National Marine Fisheries Service for both the Committee and for the freezer long -- Mr. Smith and the freezer longliner industry would respond to Mr. Smith's request for some kind of explanation given that the logic and the factual basis that has been used up to this point to include them appears not to -- or that the industry doesn't appear to meet the removals threshold for localized depletion. And I would hope that Mr. Balsiger and his staff could respond and clarify for the Committee so that they can judge how to treat the freezer longliner fleet in the future as they develop their RPA's.

DR. BALSIGER: Mr. Chairman, we will do that. I personally have not seen a request from Mr. Smith or anyone else asking us to do this, so I think we have a long standing policy of responding to things should they come to my attention in written form I'd be more than happy even absent that to see that this information gets to the RPA Committee.

MR. O'LEARY: Okay, thank you Mr. Chairman.

CHAIRMAN BENTON: Mr. Oliver, is there anything else under this agenda item? I think there's a couple of other sort of housekeeping matters we need to deal with, isn't there?

MR. OLIVER: Yes Mr. Chairman, I had a couple of things to -
- that were on my sort of reminder list. One was the issue of the constituency panel. I brought up under the ED report that the Council needs to make recommendations to the Regional Administrator I think rather quickly, maybe -- certainly by early this -- or it is early this week, probably this week to make recommendations for individuals that would then be appointed by the Regional Administrator to the constituency panel that's scheduled to meet May 7th and 8th right now in Juneau to review the research proposals that are being submitted. So I don't know if -- what the Council may want to do on that, if there's input or discussion at a Council level or if it's a prerogative of the Chairman. I guess the other -- two other issues specifically was to remind folks, and I passed this out early in the week and put

forms on the table in the back of the room, that the nominations for scientists to serve on the NAS National Academy Panel are being solicited and those are due to the Academy, to Susan Roberts, by April 23rd, and I've got copies of those forms if anyone is interested. And the last thing was something we talked about briefly under the ED report, was to pin down the necessity and the timing of a September Council meeting.

CHAIRMAN BENTON: Why don't we take those one at a time. With the constituency panel, Dr. Balsiger, could you clarify for me the role -- or for the Council and myself I guess, the role of the Council in naming that panel? At one time it was like we were supposed to give you three names and then another time I've heard it's more than three names, and could you sort of shed some light on that?

DR. BALSIGER: Yes, thank you Mr. Chairman. The request for proposals to distribute the \$15 million that we have to accomplish research on Steller sea lions was published in the Federal Register. That Federal Register note explains how we hope to have scientific peer review of the proposals and additionally a stakeholder or constituency review of those proposals. And although it wasn't necessarily my intention, the way the wording in the Register is -- Federal Register came out says that those constituency panels can be made up of people recommended or nominated to me by the Council. So I have no -- I don't have

latitude to choose anyone for our constituency review panel unless those names are forwarded to me by the Council. We are looking for research in a variety of topic areas and it's possible if we have 100 or so proposals we may want to have two or three different constituency panels and divide up the proposals and they can -- the constituency group can give us their comments on those. And therefore we would like to have -- and since it's fairly short notice and we have specific days we're going to meet it's conceivable not everyone can attend, so we're looking for a fairly large list of names so we could be reasonably assured that we could contact enough people to review those proposals for us.

CHAIRMAN BENTON: How many roughly do you think?

DR. BALSIGER: Well, if we had three groups with six or seven members each, that's 21 people or so that we'd like to actually have travel to Juneau to review them. If we had 30 names it's likely we'd be able to choose from those and find.....

CHAIRMAN BENTON: Okay.

DR. BALSIGER:(indiscernible) travel.

CHAIRMAN BENTON: All right. Then what I -- as a process, unless Council has another idea, what I would suggest that we do is the following. That by -- give it a little time, by say Friday or so of this week, given the short amount of time that we have available, anybody that wants to solicit names do so to Mr. Oliver. He would then take that as a list and compile that as a

list, get that out to Council members, and if you have any comments on them get that back either to Mr. Oliver or myself. That on -- I don't know what day, Monday, Tuesday, we can figure that out, we have a conference call of the steering -- the sea lion steering committee, which is Dr. Balsiger, Mr. Austin, Mr. Duffy, and myself. We'll go over that list and forward a list on to Dr. Balsiger no later than say Wednesday of next week. Is that acceptable to you, would that work?

DR. BALSIGER: Yes sir.

CHAIRMAN BENTON: Okay, is that acceptable to the Council? Okay, I'm seeing everybody saying yes. Mr. Austin, what -- go ahead.

MR. AUSTIN: Mr. Chair, trying to be a good soldier I've generated 18 names from industry that I would like to submit for this.

CHAIRMAN BENTON: Well, you can do that through the process I just named and we can get on with that. How's that? Is that all right?

MR. AUSTIN: Well, I -- what I'm thinking is that if I tell you now that you might avoid some duplication. So the industry at least knows the names that are putting -- being put forward. I'm trying to be efficient, I'm not trying to.....

CHAIRMAN BENTON: You're just trying to showboat. Go ahead.

MR. AUSTIN: Let me do it please.

CHAIRMAN BENTON: I know what you want to do, go ahead.

MR. AUSTIN: Trevor McCabe, Dave Frasier (?), Vidar Wespestad, Wally Pereyra, Paul MacGregor, Ed Richardson, Steve Hughes, John Gauvin, Dave Benson, Brent Paine, Craig Cross, Susan Robinson, Glenn Reed, John Iani, Alec Brindle, Jr., Greg Baker, Stephanie Madsen, and Heather McCarty.

CHAIRMAN BENTON: The follow -- the previously mentioned names are not qualified.....

UNIDENTIFIED SPEAKER: (Indiscernible) vote.

CHAIRMAN BENTON:will not be considered by the committee.

UNIDENTIFIED SPEAKER: Heavy hitters, yeah.

CHAIRMAN BENTON: That's fine, just submit them through -- let's put this all on a list. You can give that to Chris and -- anybody else that wants to send their names in follow the procedure that I laid out and we'll try and have this rounded up for Dr. Balsiger in short order. We'll see what your success rate is. See there's a up and down side of announcing too early. Mr. Mace, you were looking for.....

MR. MACE: Well, I just -- you said next week, what -- I'm not sure what week this is. You're talking about.....

CHAIRMAN BENTON: I'm following.....

MR. MACE:a week from Wednesday or.....

CHAIRMAN BENTON: I'm talking about a week from Wednesday Mr. Mace, yes.

MR. MACE: Okay, thank you.

CHAIRMAN BENTON: So by the Friday of this week get your names to Mr. Oliver and we will get -- we will have a conference call, the sea lion steering committee, early next week and try and -- or have a list developed for Dr. Balsiger by about Wednesday of next week, a week from day after tomorrow. Which leads us to the NRC nominations which you've already talked about.

UNIDENTIFIED SPEAKER: Yeah, (indiscernible).

CHAIRMAN BENTON: And then our September meeting.

UNIDENTIFIED SPEAKER: Yep.

UNIDENTIFIED SPEAKER: The September meeting, Mr. Chairman, going back to -- to turn myself back here to B-1 and remind myself of the dates that we were discussing. But I don't think that anything has changed from the discussion we've had under sea lions here that would alter our plans for a September meeting. It looks like as we talked about finalizing alternatives in June, completing an analysis over the summer that would have to be finished by roughly mid-August, mid to late August, and we would have a single issue, hopefully single issue meeting, in September here in Anchorage for initial review. We would be able to send that document out for approximately a month prior to the Council's final decision in the -- at our October meeting. So we are -- we

have tentatively scheduled for the week after Labor Day. The SIC would meet on the 5th and 6th, so that I believe is a Wednesday and a Thursday. The AP would begin -- would meet on the 6th, 7th, and 8th and the Council on the 7th, 8th, and 9th and possibly the 10th. So basically a one day overlap between those meetings to simply allow the staff report to go to the SSC. Then when the SSC is doing their deliberations the staff would move to the AP and et cetera, the next day to the Council. So it'll be a very tight schedule when -- and roughly plan on three days and potentially four for the Council. And you would start, Mr. Chairman, the Council would be the 7th, 8th, and 9th, which I believe, if I -- maybe I need to pull my calendar out, is a Friday, Saturday -- let me just find out for sure.

UNIDENTIFIED SPEAKER: Yeah. Friday, Saturday, Sunday.

UNIDENTIFIED SPEAKER: Yes, Friday, Saturday, Sunday. That would be here in Anchorage at the Hilton, correct Helen?

UNIDENTIFIED SPEAKER: That's what we have (indiscernible).

UNIDENTIFIED SPEAKER: But we need to do that.

UNIDENTIFIED SPEAKER: When's Labor Day, what.....

UNIDENTIFIED SPEAKER: It's the weekend prior to that.

UNIDENTIFIED SPEAKER: Okay.

UNIDENTIFIED SPEAKER: Or 3rd.

UNIDENTIFIED SPEAKER: 3rd, yes.

UNIDENTIFIED SPEAKER: So this.....

UNIDENTIFIED SPEAKER: I hate to ask this question but I'm going to, and Helen will throw rocks at me I know. What would be the chance of doing this meeting somewhere other than Anchorage like say Sitka? At that time of year. Is there still a lot of cruise ship traffic and whatnot in there?

UNIDENTIFIED SPEAKER: (Indiscernible).

UNIDENTIFIED SPEAKER: Yeah. Ms. Behnken.

MS. BEHNKEN: Mr. Chairman, things do slow down a little bit by early September, there are cruise ships coming until October. I can certainly help Helen and talk to some of the people there and see if they could host the Council.

CHAIRMAN BENTON: Well, Helen could you look into whether we could do it in Sitka? And if it works fine, if it doesn't fine. Yeah. But if it could work out that wouldn't be a bad thing. Is the date still all right with everyone? Looks fine. So let's just leave her at that. Anything else here Mr. Oliver?

MR. OLIVER: Mr. Chairman, I believe we don't have anything else under this agenda item. Next would be C-5, crab rationalization.

CHAIRMAN BENTON: All right, why don't we go ahead and take a break, come back for agenda item C-5.