


MEMORANDUM

TO: Council and Board Members

FROM: Chris Oliver   
Acting Executive Director

DATE: January 28, 2002

SUBJECT: Steller sea lion measures

BACKGROUND

In October, the Council adopted alternative 4 of the draft Supplemental Environmental Impact Statement (SEIS) as its final preferred alternative to protect Steller sea lions, with only minor modifications and clarifications. These modifications are contained in the Council's final motion (attached). In addition, the Council recommended that a vessel monitoring system be required on all vessels, except those using jig gear, participating in directed fisheries for pollock, Pacific cod, or Atka mackerel. The Council requested NMFS to explore federal funding options for purchasing, installing, and implementing vessel monitoring systems on vessels (discussed under B-2).

The Council also identified eight items to be analyzed in a trailing amendment, for possible implementation in the 2003 season (see attached list). In November, the Board delegated authority to ADF&G to mirror federal regulations adopted for pollock, cod, and mackerel fisheries, and made two modifications to federal regulations. Haulouts of Cape Barnabas and Caton Island would be open to fishing with pot gear within 0-3 nm, and the season for Pacific cod in the Chignik area would begin on March 1. These regulations sunset on December 31, 2002. In December, the Council voted to include the Board's modifications as options in the trailing amendment package.

At this meeting, NMFS staff will provide a preliminary evaluation of the magnitude of these options relative to jeopardy consequences. Tradeoffs may be required to implement any of these options and still avoid jeopardy and adverse modification of Steller sea lion habitat. The Council will discuss how to proceed with the amendment package.

## Council Final Motion on Steller Sea Lions

Adopt Alternative 4 as described in the action memo attached to Agenda item C-2, titled "Revised Description of Alternative 4, based on September 2001 Council action" (pages 2-26 through 2-36), with the following modifications:

- 1) Page 2-28, Applicable to BSAI Atka mackerel fisheries: (second bullet)  
"TAC would be further apportioned inside and outside critical habitat, with 60% inside and 40% outside.
- 2) Page 2-32, Exclude Options 1 and 3, Include Option 2: Unalaska small boat exemption for Pacific cod. This would establish a fishing zone in the Dutch Harbor area (Area 9) for jig, and longline catcher vessels less than 60 ft. as described on the attached map (presented by the Dutch Harbor fisherman). {All waters of the Bering Sea and Area 9 south of the line connecting the point 3 nm north of Bishop Point to Cape Tanak.} This Option would include a 10 nmi radius closure around the Bishop Pt haulout in Area 9. This area would fish under a 250,000 lbs. Pacific cod harvest cap.
- 3) Page 2-33, Closure of the Aleutian Islands to directed Pollock fishing West of 170 West Longitude in 2002. Directed pollock fishing would open in the Aleutian Islands in 2003 with a seasonal TAC split of 40/60.

Also include the following clarifications:

- 4) P. cod rollover in the BSAI: – Unharvested cod can be rolled over from one season to the next, consistent with bycatch consideration objectives of optimizing catch by gear groups and sectors.
- 5) P. cod trawl fishery closures during the Atka mackerel CH fishery: - P. cod trawling should be closed from 0-20 nmi off rookeries and haulouts in the AI west of 178 West Longitude during the Atka mackerel CH fishery.
- 6) P. cod fishery in the GOA B Season accounting: - The start date for the GOA cod B season would be 6/10, but directed fishing would be prohibited for all gear until 9/1.
- 7) AI CDQ mackerel season: - CDQ mackerel fishing should be governed by a single season as per the 2001 provisions.

With the exception of vessels using jig gear, all vessels participating in a directed fishery for pollock, Pacific cod, or Atka mackerel must have onboard an operable VMS unit during the time period that the respective directed fishery is open in federal waters. Specific VMS provisions will be included in the emergency rule implementing the 2002 Steller sea lion protection measures and would be effective on June 10, 2002.

The Council encourages NMFS to develop standards and protocols for integrating a software backup system which uses existing vessel electronics into the vessel monitoring and data reporting program for groundfish fisheries. The Council also requests NMFS to explore federal funding options for these measures. Should federal funding for VMS become available, NMFS should prioritize funding to vessels fishing for cod with disproportionate costs, possibly based on earnings estimates. NMFS should provide notice to fishermen of possible federal funding 90 days prior to June 10, 2002. Further, the Council requested that NMFS provide a discussion paper for February on procedures NMFS would use when a VMS unit breaks down on a vessel.

The Council moved to seek an independent scientific review of the F40 harvest policy relative to national standards. The intent of this review is to determine whether changes need to be made to account for ecosystem needs.

**Items for a trailing amendment to be analyzed and considered for the 2003 season:**

1. Area 8 exemption: allow catcher vessels (of any LOA) using longline gear to fish 3-10 nm from haulouts of Reef-Lava and Bishop Point.
2. Area 4 exemption: allow vessels under 60 feet LOA using fixed gear to fish in waters of the Chignik area.
3. Stand down provisions between A/B and C/D seasons for pollock in the GOA
4. Exemption for all longline, pot, jig gear, and trawl catcher vessels and catcher processors under 60 ft. Identify as a preliminary preferred alternative that the exemption would only apply to catcher vessels.
5. Examine options for a Gulf of Alaska Pacific cod split other than the current 60/40 split.
6. For the BSAI Atka mackerel fishery, analyze options to change percentage inside/outside critical habitat of 50/50 and 70/30.
7. For the Aleutian Islands pollock fishery, examine three options:
  - a) closure;
  - b) a single season outside of critical habitat;
  - b) a split season (40/60 % of TAC).
8. In Area 9, analyze a range of caps for pot, longline and jig gear.
9. (December 2001 addition). The Board of Fisheries modifications.

Comparison of measures adopted by the Council and by the Board of Fisheries.		
<u>Area</u>	<u>Council Action</u>	<u>Board Action</u>
Cape Barnabas	0-3 nm open to jig gear 0-3 nm closed to trawl & fixed gear	0-3 nm open to jig gear 0-3 nm open to pot gear
Caton Island	0-3 nm open to jig gear 0-3 nm closed to trawl & fixed gear	0-3 nm open to jig gear 0-3 nm open to pot gear
Chignik Area	Open State waters cod fishery seven days after closure of directed Federal season in Central Gulf	open state fishery on March 1



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

January 29, 2002

RECEIVED

JAN 29 2002

N.P.F.M.C

David Benton  
Chairman, North Pacific Fishery  
Management Council  
605 West 4<sup>th</sup> Avenue  
Anchorage, AK 99501-2252

Dear Dave,

At its February 2002 meeting, the Council is scheduled to discuss its proposed amendments to new Steller Sea lion protection measures that the Council tasked staff to analyze at its October 2001 meeting. These proposals include the following measures:

1. Area 8 exemption for catcher vessels using hook-and-line gear to fish 3-10 nm;
2. Area 4 exemption for vessels  $\leq$  60 ft using hook-and-line or pot gear in Chignik;
3. Stand down provisions between A/B and C/D seasons for Gulf of Alaska (GOA) pollock;
4. Exemption from Steller sea lion protection measures for all vessels  $<$  60 ft;
5. Alternative seasonal splits for GOA Pacific cod;
6. Alternative critical habitat harvest limits for Atka mackerel in the Aleutians;
7. Alternative prohibitions on directed fishing for pollock in the Aleutian Islands; and
8. Alternative Pacific cod harvest limits in Area 9 for pot, hook-and-line and jig gear.

An additional proposal was put forward by the Alaska State Board of Fish (BOF) that would allow federally permitted vessels using pot gear to fish within 0-3 nm of two GOA haulouts at Caton Island and Cape Barnabus.

In general, these proposals reflect three different classes of adverse departure from the existing Steller sea lion protection measures. Proposal #4 likely would constitute a major adverse effect because it would relieve protection measures throughout the 13 subareas used by analysts in deriving fishery impacts of the Alaska groundfish fisheries. Proposals 3, 5, 6, and 7 likely would have moderate adverse effects given that they would relieve protection measures in as few as 2, but as many as 6 of the subareas. Proposals 1, 2, and the BOF action likely would have minor adverse effects because they would relieve protection measures in only a single subarea.

Given the undermining effect of these measures, NMFS cannot endorse them without balancing their implementation with additional protection measures imposed on other segments of the fishing fleet. Until new information becomes available to indicate otherwise, NMFS believes



strongly that Steller sea lion protection measures determined necessary to avoid jeopardy to the western population of these animals or adverse modification to their habitat must not be eroded.

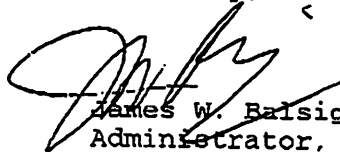
NMFS further believes that the Alaska State Board of Fish action to change the season dates of the State managed Pacific cod fishery in the Chignik area and to exempt pot vessels from the Caton and Barnabus haulout protection areas provides some relief to small GOA communities. We don't yet know how the existing protection measures will impact the fleets' ability to harvest available amounts of Pacific cod, pollock, or Atka mackerel. However, if the Council believes that it must pursue these proposals at this time, NMFS recommends that the Council establish some interactive process, such as the "RPA Committee," to provide essential input on countervailing measures that provide enhanced protection in other areas and fisheries that will be necessary to balance the relaxation of measures for fishermen included in the relief measures being considered by the Council. Until we know these offsetting conditions, NMFS staff cannot proceed with an analysis of costs and benefits to arrive at net effects of the proposed actions.

NMFS staff has been identified as the primary resource for completing the analysis of the Council's proposed measures. The timing of this analysis will depend on the Council's willingness to provide an opportunity for interactive discussion between NMFS staff and a Council committee in a workshop environment similar to that relied upon for the development of the existing Steller sea lion protection measures. Availability of NMFS staff may also be impacted in the short term by ongoing litigation that now is focused on the adequacy of the October 2001 Biological Opinion and the ensuing Steller sea lion protection measures recommended by the Council and implemented by NMFS.

In a joint litigation status report filed with the Court on January 18, 2002, Plaintiffs indicated their intent to challenge the Biological Opinion by February 22, 2002. The Parties proposed a litigation schedule for the Court's consideration that will wrap up the briefing by July 15, 2002. Oral arguments will be scheduled by the Court after July 15. We anticipate that NMFS staff will be involved closely in this litigation throughout the spring and early summer of 2002.

NMFS staff will be available at the February 2002 Council meeting to respond to questions and seek further guidance from the Council on its intent in providing support for ongoing analysis of the Council's proposed measures.

Sincerely,



James W. Balsiger  
Administrator, Alaska Region